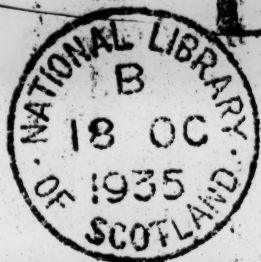


# Decreet of Separation,

The Apothecaries of Edinburgh,

Against

The Chyrurgeons there.



LAURISTON CASTLE  
LIBRARY ACCESSION

AT Edinburgh, the 24th day of March 1682 years. Anent the Libel first intended and pursued before the Provost and Baillies of Edinburgh, and thereafter Advocat of consent of both Parties Procurators after-named, to the Lords of Council and Session, and which Summonds is raised at the instance of Mr. James Nisbet then Deacon of Chyrurgeons of Edinburgh, and in name and behalf of the remanent Brethren and Friends Chyrurgeons and Parbers of the said Burgh, against Patrick Cunningham Apothecary in the said Burgh, Touching the said Defender his hearing and seeing of himself Unlawed and Fined by Decreet of the saids Baillies, for his alledged Operating in Chyrurgery, he not being a Freeman of that Trade and Calling, as in the said Libel, Summonds, or Precept raised in the said Matter at more length is contained. As also, anent the two mutual Summonds and Actions of Declarator, raised and pursued before the saids Lords, the one thereof being als well an Action of Reduction as Declarator at the instance of the said Patrick Cunningham and haill Freemen Apothecaries in the said Burgh, Viz. John Kennedy Visitor, James Foulis elder, Robert Campbell, Hugh Neilson, Thomas Dalrymple, John Hepburn, James Aikenhead, John Foulis younger, Mr. Alexander Hay, Mr. James Macmath & James Lothian, Freemen Apothecaries, Burgeses & Gild-brethren of the said Burgh of Edinburgh, lawfully entered, admitted & received, to whole great hurt and prejudice in the free Exercise of their Employment as Apothecaries, the Acts, Ratifications, and other Writs after-mentioned, are alledged, purchas d and procured, at the least are made use of by the saids Chyrurgions, against the saids Apothecaries, to the prejudice of the just Priviledges of their Employment as Apothecaries, and their assiduous attendance upon the Kings Subjects their Patients in their saids Imployments, as for the Health of his Majesties Subjects is requisite; and Iwa having good and undoubted Right to Pursue the Action of Reduction and Declarator underwritten, against the said Mr. James Nisbet present Deacon of the Chyrurgeons, Alexander Pennicook, John Forrest, George Scot, James Hopkirk, William Semple, Robert Kennedy, Thomas Scot, James Cleiland, Thomas Edgar, John Carmichael, and Peter Norie simple Chyrurgeons and Chyrurgeon Barbers in the said Burgh; And scklike, Thomas Kincaid, William Borthwick, John Joissie, Hugh Brown, George Stirling, David Pringle, James Ogilvie, Walter Turnbull, and James Cranford Apothecary-Chyrurgeons in the said Burgh; and als against Sir Thomas Murray of Glendoch then Clerk Register, and Mr. Alexander Gihson of Adistoun his Deput, and the Provost, Baillies, and Town-Council of the said Burgh of Edinburgh, and Mr. James Rocklaid of Innerleith their Town Clerk for their Interests, and all others having or pretending to have Interest in the said matter under-written, Touching the said Chyrurgeons and others Defenders in the foresaid Action, their bringing with them, exhibiting and producing before the saids Lords of Council and Session. Imprimis, An Ratification alledged past by the pretended Parliament 1641 years, whereby certain Priviledges, Writs and Rights, are alledged ratified to and in favours of the Chyrurgeons of Edinburgh & particularly giving them Power to take, apprehend, and imprison unfreemen Contraveeners of their Priviledges, av and while they enact themselves under the pain 20 pounds Scots toties quoties, which Ratification is dated the day of one thousand six hundred and forty one years fore-said. Item, An Act of the Town-Council of Edinburgh, of the date the day of one thousand six hundred and forty three years, Wherein the applying of Cere-Cloaths are decerned properly to belong to the Chyrurgeons. Item, Another Act of Town-Council of Edinburgh, dated the day of 1655, Whereby the several Distempers therein enumerat in the whole Cure and Accidents of the same; are allowed to Chyrurgeons allenarly. Item, An Act and Ratification past in favours of the Chyrurgeons in his Majesties late Parliament 1670 years, or of whatsoever dates, tenor, or contents



contents the same are of, to be seen and considered by the saids Lords, and to have heard and seen the same reduced, retreated, rescinded, cassed, annulled and decerned and declared, to have been from the beginning, to be now and in all time-coming null, and of none avail, force, strength, nor effect, with all that has followed, or may follow thereupon, and the saids Pursuers reponed and restored *in integrum* there-against *cum omni causa*, sicklike as if the same had never been made given nor granted in *rerum natura*. And whilks Acts, Ratifications and others above-written, being so reduced, the said Defenders to hear and see it by Decreet of the saids Lords found and declared, that it shall be no ways lawful for them to molest and trouble the Pursuers, or their Successors, in the free exercise of their Calling and Employments as Apothecaries, as they questionably are, and formerly have been in use of exercising the same, until the saids Lords shall by the advice and council of disinterested, learned and capable Physicians, and with a due regard to the Interest of his Majesties Subjects, shall in their Decreet to follow thereupon, prescribe such Rules and Orders for the regulation and distinguishing of the said two Callings of Apothecaries and Chyrurgeons, as the saids Lords shall in Justice, and by Advice foresaid, think most fit and proper for the health, ease and conveniency of his Majesties Subjects, and due encouragement, preservation and improvement of that so noble and necessary Faculty of Medicine, in all the parts and branches thereof, in due and becoming order within this ancient Kingdom. And which two Callings of Apothecary and Chyrurgery being so distinguished by the saids Lords as said is, all such Apothecaries and Chyrurgeons who take upon them to use and confound both Callings, while as yet undistinguished, to hear and see themselves decerned and restricted to make their choice and election, which of the saids two Callings they will exercise and practise in time-coming; And to hear and see themselves decerned lyable to observe the Rules and Orders so to be prescribed, either as simple Chyrurgeons, or simple Apothecaries without confusion of the two Callings in one, as should be determined by the saids Lords thereintill, as also to hear and see it found and declared, that the making and applying of Cerecloaths doth only belong unto the Apothecaries, and that the Chyrurgeons ought neither to make or apply the same, and als that it is lawful and leifum to the Apothecaries to use Phlebotomie when the same is asked upon occasion of inward distempers, and to give Dyetts and Medicaments at all occasions; As also to hear and see it found and declared, that it shall not be lawfull or competent upon any pretended contraventions of the saids Rules, to trouble or molest the members of either calling, except they be taken in the Act of contravention *per manus injectionem in crimine flagranti* as is allowed to and practised by other Trades and Incorporations allenerly; And that it shall not be lawful to parties to give their Oaths for any such alledged contraventions, and to hear and see it found and declared that the Defenders have done wrong to molest and trouble *Patrick Cunningham* and of the parties above-named, in withdrawing him from the necessary attendance upon Patients, His Majesties Subjects, by acquiring him to attend a Law suit for giving his Oath, upon pretence of his contraveining of the alledged privileges of the Chyrurgeons, not as yet by His Majesty, or the saids Lords upon a full hearing of all parties concerned, Cleared, Setled, or Determined, and to hear and see themselves decerned to desist and cease from all further troubling of the said *Patrick*, or any other Freeman Apothecary within the said Burgh of *Edinburgh*, for giving of their Oaths upon any such like account, in all time coming, and that for the Reasons and Causes following in the first, because the Noble and Supream Faculty of Medicine is in it self, a free and liberal science, and ought in all the Branches thereof, be kept and used als freely as any other liberal Science, with a just Respect to good ordour, and the decent constitution of the Kingdom, seeing the Administrators thereof have next under GOD and great care of the Health and Lives of the Subjects, under Diseases and Distempers; and therefore ought not upon any needless or freevelous pretences. be by unnecessary legal Pursuits withdrawn from the assiduous attendance upon their Patients, for gratifying the humor or interest of a few for their own Interest and ends concerned; And therefore all Limitations or Restrictions upon the Physician Apothecary, or Chyrurgon, either in their common or proper Employments as contrair distinguished one from an other does belong and ought only to be given by His Majesty and his Supream Judicatories as the King, and they with the advice of able, learned, skilful and disinterested Physicians, shall find most consistant with His Majesties honour, the Laws of the Kingdom, and most convenient for the ease, health and conveniency of His Majesties good Subjects, and so ought not to be presumed upon, to be determined and described by Acts of Particular Burghs and their Councils, the Members whereof are many times Persons altogether ignorant of the very names and terms of Art used in Physick  
Pharmacy



Pharmacie or Chyrurgery, and so very unfit and unqualified Judges, to set Limits and Marches betwixt Pharmacie and Chyrurgie, or to prescribe Rules to the Physicians Pharmacia and Chyrurgeon in their proper or distinct Employments; and therefore that pretended ratification Above-written, past in the pretended Parliament 1641. ought to be rescinded, because it contains a Clause for apprehending incarcerating, enacting that such apprehendit should not use Chyrurgical operations, which upon many supervenient exigencies, they may become obliged to, especially if they be Freemen Apothecaries of *Edinburgh*; And that the foresaid ratification was but surreptitiously purchast by the Chyrurgeons, from the said pretended Parliament without calling of the Physicians or Apothecaries thereto. And hearing them for their Interest there against at the least, the same ought to be Restricted to unfree men, Journey-men & Apprentices, and that only when they are seized upon *in crimine flagranti*, and not to be extended to Skilful and Experienced Free-men Apothecaries, als weel lawfully admitted Burges and Gild-Brethren of *Edinburgh*, as Masters of Publick Appothecaries Shops there. *Secundo*, And for the Reasons foresaid the Above-mentioned Towns Act in *anno* 1643. ought to be reduced, because it is given *a non competenti Judge* as said is, and it's against common sence and reason, to think that the Application of a Cere-cloath to a dead Body, whereupon there is no Anatomical dissection used, can be a Chyrurgical operation, and so ought never to have been decerned to belong properly to the Chyrurgeons, *exclusive* of the Apothecaries; and seing the Subject matter of Chyrurgery is to mend, recover and restore Luxations fractors and *dissolutionem continuitatis*, it is ridiculous to allow the Apothecarie the making of Cereclothes, and yet to deny him the Applacation thereof, to the said Body of his own Patient, when no anatomical dissection is used, which tends to nothing but to extort and oppress the good Subjects, and to render the making of Cere-cloaths, in favours of the Apothecaries altogether elusory and ineffectuall, for seing by a late Invention, some Apothecaries have crept in to be Chyrurgeons, such Chyrurgeons will never make use of Cere-cloaths made by simple Apothecaries, but will force the Friends of the Defunct to make use of Cere-cloaths, to be made by themselves, as hath been several times of late experimented in sundry Instances, to the great Expenses and Extortion of the Subjects, and to the derrement and discouragement of the simple Apothecary. *Tertio*, The Towns Act in *anno* 1655. Above-written ought to be *funditus* reduced, not only because it is an high incroachment upon what properly belongs to His Majesty & his Highnesses *supream Judicatories* as said is, for the Council of a Burgh to presume to take upon them to find and declare what property belongs to Chyrurgie and *Pharmacy* as contrair distinguished from another, but that the same being pronounced in the time of Usurpation is in it self most unjust absurd and unwarrantable: As *first*, In turning all the Distempers therein innumarated Statutory in Favours of the *Chirurgeons* alienarly, which is but meerly narratory in the Act 1643; and these contraverted as indifferently used, als well by the *Appothecaries* as by the *Chirurgeons* of the Burgh, as in finding the Consent and Concessions alledged for a few *Appothecaries* in *anno* 1643, Binding upon all Succeeding Appothecaries contrary to all Law and Justice, and in debasing of the Honour of the Physician in his *directive faculty* in prescribing dyet and Medicament, and all other requisite for perfecting of the Cures of the Distempers therein-mentioned with their accidents, which near comprehends all Physick to the Chirurgeons alienarly, and to none others for which no shadow of Reason can be given, except the unwarrantable Gratifying of the Chirurgeons, for the countenancing and continuing of the Factions designs of the then Magistrats, those endeavouring what in them lay to Establish in the time of an Usurpation, a certain Mock Borrow Colledge of Physicians, by Inhancing all Physick and Medicine, als well in the directing, compounding, and operating parts thereof, by this their Act 1655, procured before the Erecting of the Appothecaries, who was by the Towns grant being Erected, ought only to Enjoy the Priveledges by the acclaimed as proper, and only competent to their Art and Calling. And therefore, the saids pretended Acts, Ratifications and others respective above-written, ought and should be Reduced, Retreated, Rescinded, Cassed, Annulled, Decerned, and Declaired to have been from the Beginning to be now, and in all time coming Null and of none avail, Force, Strength, nor Effect with all that has followed, or may follow thereupon: And the saids Pursuers Reponed and Restored *in Integrum* there against, *cum omni causa*; Sicklike, as if the same had never been Made, Given nor Granted *in rerum natura*; and whilk Acts, Ratifications and others above-written being sua Reduced, the saids Defenders to hear and see it by Decreet of the saids Lords, found and declaired that it shall be no ways lawful for them to molest and trouble the Pursuers, or their Successors in the free exercising of their Calling and Employments as Appothecaries as they presently are, and formerly have been



been in use of Exercising of the samen, until the saids Lords shall by the Advice and Counsel of disinterested Learned and able Physicians, and with a due regard to the Interest of the Subjects in their Decree to follow hereupon, prescribe Rules and Orders for the Regulation and distinguishing of these two Callings of Appothecaries and Chirurgeons as the saids Lords shall in Justice, and by Advice foresaid think most fit and proper for the Health, ease and conveniency of the Subjects, and due Incouragement, Preservation and Proving of that so Noble and necessary Faculty of Medicine, in all the parts and Branches thereof, in due and befitting Order within this antient Kingdom; and which two Callings of Appothecary and Chirurgery, being sua distinguished by the saids Lords as said is, all such Appothecaries and Chirurgeons, who take upon them to use and confound both Callings, whilk as yet undistinguished, to hear and see themselves Decerned, and Restricted to make their Choice and Election, which of the saids two Callings they will practise and Exercise in time coming, and to hear and see themselves Decerned lyable to observe the Rules and Orders sua to be prescribed, either as simple Chirurgeons, or simple Appothecaries without confusion of the two Callings in one, as shall be Determined by the saids Lords thereintil, and also to hear and see it found and declared that it shall not be lawful, nor competent upon any contravention of the saids Rules to trouble or molest the Members of either Calling, except they be taken in the Act of Contravention, *per manus injectionem in crimine flagranti*, as is allowed to, and practised by other Trades and Incorporations alienariy, and that it shall not be lawful for to Force Parties to give their Oaths, for any such alledged Contraventions, and to have heard and seen it found, and declared that the Defenders have done Wrong to molest and trouble *Patrick Cunningham* one of the Pursuers above-named, in withdrawing him from his necessary Employment and attendance upon his Patients His Majesties good Subjects, by requiring him to attend a Law suit for giving of his Oath upon pretence of his contraveining the alledged Priviledges of the Chirurgeons, not as yet by His Majestie, or the saids Lords upon a full hearing of all Parties concerned, cleared, settled or determined, and to hear and see themselves decerned to desist, and cease from all farther troubling of the said *Patrick*, or any other free men Appothecaries within the said Burgh of *Edinburgh*, for giving of their Oaths upon any sicklike account in all time coming and that for the Reasons and Causes above-written as the said Summonds of Reduction and Declarator; more fully bears, and the other of the saids Summonds at the instance of the said Doctor *James Nisbet*, then deacon of the Incorporation of the saids *Cherurgeons*, *Alexander Pennycook*, *Thomas Kincaid*, *James Cleiland*, *Walter Turnbills*, *John Joyssie*, *William Borthwick*, and *George Stirling*, then Masters of the said Incorporation, and *Thomas Henderson* present Box master of the samen; for themselves; and in name and behalf of the remnant Brethren and Freemen of the *Cherurgeons* and *Barbars* of *Edinburgh*, their instances Against the whole *Appothecaries* and others unfreemen in the said Burgh of *Edinburgh*, viz. *John Kennedy* Appothecary there, *John Foulis* elder Appothecary there, *Robert Campbell* Appothecary there, *John Hepburn* Appothecary there, *Mr. James Mackmath* Apothecary there, *Hugh Neilson* Appothecary there, *James Aikenhead* Appothecary there, *James Londoun* Appothecary there, *Patrick Cunningham* Appothecary there, *Mr. Alexander Hay* Appothecary there, *John Foulis* younger Appothecary there, *Thomas Dalrymple* Appothecary there, *Walter Porterfield* Appothecary in the Cannongate, *George Mackalla* Appothecary in *Leith*, *Edward Cunningham* Perwig-maker in *Leith*, *James Robertson* Barbar there, *John Brown* Garidner in the Abbacy of *Holy-rood-house*, *Andrew Jackson* Gairdner at the West Port, *James Hughson* Gairdner at the *Pleasance*, and *George Bell* Cherurgeon in *Edinburgh*, *Euphan Bortine* and *John Biglie* her Spouse indwellers in *Edinburgh*: the which Summonds mak in mention, that where the Lord Provost, Baillies and Council of the said Burgh of *Edinburgh*, by their Seal of Cause under their common Seal, of the date at *Edinburgh* the 1. day of the Moneth of *July*, and year of GOD 1505 years, for the good and onerous Causes therein mentioned, did give and grant to the *Cherurgeons* and *Barbars* within the said Burgh of *Edinburgh*, for the time being, and to their Successors, the Rules, Statutes and Priviledges under-written, consonant to reason, known to His Majestie & His Highnesses Pregonitors of glorious and worthy Memory, and to the profit of the said good Town of *Edinburgh*, and all his Majesties Subjects and Leidges, viz. *Imprimis*, That the saids *Cherurgeons* might yearly choise amongst themselves, an Kirk master or Deacon and Overman, to whom the whole Brethren of their Craft should obey for that year. Item, That no manner of person should occupie or use any points of the saids Crafts of *Cherurgery* or *Barbour* Crafts within the said Burgh of *Edinburgh*, but he that bees first an

Burgess



Burges and Freeman of the said Craft, and that he be worthy and expert in all the points belonging to the said Craft, diligently and advisedly examined and Admitted by the Masters of the said Craft, for serving of his Majesties Leidges and Neighbours of the said good Town, and als, that every Freeman who is to be made a Freeman and Master amongst the saids *Cherurgeons*, should be examined and proved in thir points following, that is to say, That he knew *Anatomia*, Nature and-Complection, and every member of humane Body, and likeways than he knew all the Veins of the samen, that he may make *Phlebotomie* in due time, and als, that he knew in whilk member the sign has Dominion for the time, in respect every man ought to know the substance and nature of every thing he works, unless he be negligent; and als, that the saids *Chirurgions* and their saids Successors should have once in the year an condemned man after he be dead to make an *Anatomia* of, wherem through they might have Experience ilk one to instruct another, and that none within the said Burgh haunt, use nor exerce the Craft of *Chirurgery*, without he be expert and know perfectly the things above-written: and what person that should happen to be Admitted Freeman or Masters to the saids Crafts, or should occupy any point of the samen, should pay his Upset at his Entry, with an Dinner to the Masters of the saids Crafts, at his Admission and entry amongst them, except and every Freeman Master of the saids Crafts, one of his lawful gotten Sons to be free of any Money paying, except the Dinner to be made to the Masters after he be Examined and Admitted by them as said is. *Item*. That no Master of the said Craft shall take any Prentice or fied man to use the *Chirurgion* Craft, without he could both Read and Write; and the saids Master of any of the saids Crafts that takes any Prentice, should pay at his entry 20 shilling Scots Money, and that no Master of the said Cr. f. should reset nor receive any other Masters Prentice nor Servant while the lth of his Terms be run, and who that does in the contrair thereof, als oft as he fails, should pay 20 shilling but favour. *Item*. That every Master that is received Freeman to the saids Crafts, should pay his weekly Pennies, with other dues mentioned in the said Seal of Cause, and every Servant that is a Fied man to the Masters of the said Craft should pay ilk week one half penny, and that the said Incorporation should have power to choise their own Officer to pass with them, for ingathering of their quarter & weekly pennies, & to pass before them at their Occasions, and gatherings, sicklike as other Crafts within the said Burgh of *Edinburgh* has; and that one of the Masters of the saids Crafts, should pass with the Officer of the samen, at all times needful, and list and raise the saids Quarter Payment fra every person that owe the samen, and give any disobeyes, that they might Poynd and distrenzie them; therefore haveing an Officer of the said good Town with. *Item*, that no Master nor Free-man of the saids Crafts, Purchas any Lordship in contrair the Statutes and Rules above Written in hindring Skaithing of the Crafts foresaid, or comon weell thereof, under the Pain of Tinsel of their Freedoms. *Item* that all the Masters, Freeman and Brethren of the saids Crafts, reddily obey and come to their Kirk Master and Deacon, at all time when they shall be required therto, be the said Officer for to hear quarter Compts, or advise any thing concerning the comon weel of the saids Crafts, and whoso disobyes the samen should pay twenty Shillings Money foresaid, as the said Seal of cause of the Date foresaid containing diverse and sundry others Heads, Articles and Clauses at mair lenth proports. Likeas his Majesties Royal Progenitor, *James* by the Grace of God, King of Scots by his Letters of Ratification, given under his Privy Seal of the Date at *Edinburgh* the 13th day of *October*, 1506 years, direct to the Provost and Baillies of the said Burgh of *Edinburgh*, for the time being or that should happen thereafter, to be for the time, and to all and sundry others his Officers, Leidges and Subjects Ratified, Authorized, and confirmed for him and his Royal Successors, the foresaid Rules and Statutes, contained in the Seal of Cause abovementioned, and the samen Seal of Cause granted to the Masters men of *Chyrurgeon* and *Barbar* Craft, in the haill Points and Articles thereof, after the Forme and Tennor of the samen, and strairly Charged and Commanded the saids Provost Baillies; and others his Officers Leidges and Subjects, that they nor none of them should take upon hand to do or attempt, any thing in contrair or breaking of the saids Statutes and Rules, or his said Confirmation, made and given thereupon in any ways in time coming, under all the highest Pain, and Charge that after may follow. Atour, if any of the saids Crafts-men, disobeyed or did any ways come in contrair the saids Satutes, the saids Provost and Baillies then present, and thereafter that should be recommended to Compel them to obey and fulfil the saids Statutes, as effeirs in all things after, the Forme and Tennor of the saids Seale of Causes, under the pains foresaid, as the saids Letters of Ratification of the Date foresaid at more tenth bears. And sicklike *Mary* Queen of Scott, be her Letters of Gift



under the Privy Seal of the said Kingdom of the Date the 11th day of May, the year of God, 1567 years, for the Causes therein nominat, gave and granted Licence to all, and sundry Chyrurgenos, Inhabitants of the said Burrows of his Realme then present, and to their Posterity for the time being Chyrurgeons, whilks should be able and qualified Persons, and who after Examination before the Deacon and Brethren of that Occupation, within the said Burgh of *Edinburgh*, that should be found able and worthie, To use and Exerce the said Craft and no others, that they should nought bear Armour, nor pass in Battel in any Hosts, Roads gathering Assemblies, Wapon shawings or Weirs, to be made by the Kings and Queens of the said Realme, or their Successors, or their Lieutenants or wairdanes be Burgh Sea or Land, within the said Realme, nor out with the samen & alle Licence, to them fra all Compirance, and passing upon any Inquests or Assyzes in Actions Criminal or Civil, Justice Heirs, Justice Courts, Shireff Courts, Burrows Courts, or others for Serving of the Breives, appraisings of Lands or any other manner of Actions whatsoever, except sua far as concerns the Judgment, and sight of their said Craft, allenerly Eximand, and Discharging them there frae in all time coming, and witted and granted the saids Chyrurgeons then present, and their Posterity of that Occupation, nor none of them should be called, nor accused therefore, nor Incurr any Danger or Skaith there thorow in their Lands, persons or Goods or any other ways in time coming, notwithstanding of any Acts, Statutes and Proclamations or Charges speciall, or general made or to be made in the contrair, or any pains contained therein, anent the whilk the said Queen did dispense, with them and their Posterity for ever, Discharging them and their Successors. Chyrurgeons being for the time of all Action Crime, that may be impute to them or any of them, their throw discharging also, all and sundry our Admirals, Wardens Lieutenants, Shireffs, Stuaris, Crowners, Justices, Justice-Clerks Thesaurer, Thesaurer Clerks, Provosts, Aldermen, and Bailles of Burrows, and all other Officers, and Ministers of the Laws and their Deputs present, and to come of calling Attaching, Arresting, Summoning, Adjourning Poynding, Troubling or Intrometting with the saids Chyrurgeons then present, and their saids Successors of that Craft, or any of their saids Lands or Goods in any ways in time coming, for the said remaining at home, or not passing upon Assizes or Inquests as said is, (except as is before accepted) and of their Offices in that part forever, as in the saids Letters of Gift of the Date foresaid at more length is contained. And in like manner, His Majesties dearest Grandfather King *James the 6th.* of ever Blessed Memory, by his Letters of Ratification, superscribed with his Majesties Royal Hand, and subscribed by the Lords of his Majesties Exchequer, of the Date at *Greenwich* the 6th. day of *June* 1633 years, Ordained a Letter of Confirmation to be past under the Seal of the said Kingdom of *Scotland*, in Favours of the Incorporation of the saids Chyrurgions of *Edinburgh* and their Successors, Ratifying their Rights and Priviledges in manner after-mentioned. And accordingly his Majesties dearest Grandfather, by His Letters past and exped under the said Privy Seal of the Date foresaid, Ratified, and for His Majesty and His Highnesses Successors, perpetually Confirmed. The saids Letters made and granted by the saids Provost and Bailles of *Edinburgh*, and Council thereof, under their said common Seal of Causes, of the Date above-mentioned, to, and in Favours of the saids Chyrurgions and Barbars of the said Burgh of *Edinburgh*, from all and sundry the foresaids Priviledges, Freedoms, Liberties and Immunities above-written, at length specified in the said Seal of Causes, and Ratified and Approved, and for him and his saids Successors, perpetually Confirmed the foresaid Letter of Ratification and Approbation, made and granted by the said decessit King *James the Fourth*, of most worthy Memory, under the Privy Seal of the said ancient Kingdom of *Scotland*, of the Date foresaid whereby the foresaids Rules, Statutes and Priviledges, contained in the said Seal of Causes, are confirmed, and in like manner Ratified and Approved, and for Him and His said Successors, perpetually Confirmed the said Letter of Exemption, made and granted by the said decessit Queen *Mary* his dearest Mother of worthy Memory, under the Privy Seal of the said Kingdom, of the Date above-mentioned, Exeeming the Chyrurgions from bearing of Armour, passing in Battel, and from Reads, Hosts, and Gatherings, Assemblies, Wars, and Weapon-showings, and from passing upon Assizes and Inquests in Actions Criminal or Civil, and containing the other Priviledges above mentioned, together with all Acts and Decrees given by the saids Provost and Bailles of the said Burgh of *Edinburgh*, in Favours of the Deacon and Brethren of the saids Chyrurgions and Barbars within the said Burgh of *Edinburgh*, with all that has followed, or may follow thereupon, in all and sundry Heads, Clauses, Articles, Conditions and Circumstances thereof, after the Forms and Tenors of the samen in all Points, as the saids Letters of Ratification of the Date foresaid, containing a Dispensation anent the Validity of the foresaids Writs thereby Ratified, and the not Inserting thereof, and several other Heads and Clauses at more length proports. And as the



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the saids Provost, Baillies, and Council of *Edinburgh*, by an Act made and granted by them, of the Date the 20 Day of *August* 1575 years, mentioning, *That after Advise-ment had by them, with the Supplication given in to them by the Deacon and Brethren of the Chyrurgions and Barber-Craft, bearing, That it is specially provided in the Seal of Causes, and others, Gifts and Priviledges, that none should Occupy, nor use the said Craft, nor no Point thereof, unless he were a Freeman of the said Craft, within any part of the Priviledges of the Burgh.* Nevertheless the haill Apothecaries of the said Burgh, daily use & exerce the said Craft of Chyrurgery, they neither being Freeman thereof, nor priviledged thereto, neither having Speculation nor Knowledge therein till, to the great hurt of the Leiges who in their Maladies may come to their hands. Theretor the saids Provost, Baillies and Council of *Edinburgh*, Ratified and Approved the foresaid Gift under the Seal of Causes, of the Date above-written, and for more strengthening thereof, and haill Causes therein contained, they by their said Act, Discharged the saids Apothecars, and all others not Freeman Chyrurgions, not tryed nor admitted by them, of all using and exercising the said Chyrurgion and Barber-Craft in time coming under the Pain of 40 shillings, so oft as they be apprehended in contraveeing of the said Gift. And ordained the Officers of the said Burgh of *Edinburgh*, to concur with the saids Chyrurgions and Barbars, and their Officer, in Poynding for the saids Unlaws, as the said Act at more length bears. And further, the saids Provost, Baillies, and Council of *Edinburgh*, by another Act dated the 10th day of *September* 1641 years, Considering that it is as well expedient for the good of the Leiges who Reside out with the Burgh of *Edinburgh*, and not within the Liberties pertaining to the said Burgh, *That in the Matter belonging to the Art of Chyrurgery, they be provided with skilful and honest men, and not left to the Arbitriment and Imposure of Women and Ignorants.* Therefore the Provost, Baillies, and Council of the said Burgh of *Edinburgh*, did inhibit and Discharge all and sundry persons whatsoever, not being Free Men of the Chyrurgions of the said Burgh of *Edinburgh*, and who have not given sufficient proof of their qualification and knowledge in the said Art of Chyrurgery, of all using and exercising of any point of the said Art, within the Bounds and Priviledges pertaining to the said Burgh of *Edinburgh*, and appointed the Magistrats of the said Burgh to be Judges in all Controversies which should arise betwixt the Inhabitants of the saids Bounds, and the Brethren of the Chyrurgeons and Barber Craft foresaid, as in the said Act of Council of the Date foresaid at more length is contained *Attour* His Majesties decessat Father King *Charles* the First of ever blessed Memory and His Estates of Parliament, convened in *Anno* 1641 years, by Act of Parliament, *Intituled Act and Ratification in Favours of the Chyrurgeons and Barbars of Edinburgh*, Dated at *Edinburgh* the 17 Day of *November* 1641 years, ratified and approved, & for him & his Successors, perpetually confirmed all & whatsoever Priviledges, Liberties and Immunities, made, given and granted by the Provost, Baillies and Council of *Edinburgh* under the Common Seal of Causes, of the Date, the 1st Day of *July* 1505 years to and in Favours of the saids Chyrurgeons and Barbars of the said Burgh of *Edinburgh*, and specified in the said Sale of Cause, and also ratified and approved the Letters of Approbation and Ratification, granted by *K. James* the Fourth of most worthy Memory under his Highness Privy Seal, of the Date, Tenor and Contents above-mentioned. And sicklike ratified and approved, and for him and his saids Successors, perpetually confirmed by Letters of Approbation and Confirmation made and granted by the Decessat *K. James* the sixth, His Majesties said Grand Father, under his Privy Seal at *Greenwich* of the Date above-written, whereby his Decessat Grand Father willed and granted, and for him and his Successors, Decerned, Ordained and Declared the foresaid Letter under the Common Seal of Causes of the said Burgh of *Edinburgh*, and Letter of Ratification thereof, made and granted by *K. James* the Fourth to be good, valid and effectual to the saids Chyrurgion & Barbars in all time coming, together also with the said Act, Dated the tenth Day of *September* 1641 years, whereby the saids Provost, Baillies and Council of *Edinburgh* did Inhibit and Discharge all and sundrie persons who were not Free-men Chyrurgion-Barbars, from using or exercising any point or part of the Chyrurgion or Barber Craft, as well with out the Burgh of *Edinburgh* and Liberties thereof, within the haill Bounds of the same, as within the said Burgh of *Edinburgh* it self, and whereby the Magistrats of the said Burgh are declared Judges competent to all Differences that may arise betwixt the Inhabitants of the Bounds of the Liberties foresaid, and the Brethren of the said Craft. And further, His Majesties said Dearest Father of ever blessed Memory, and his Estates of Parliament considering the manifold inconveniencies that did arise, by reason of a number of Merchant Men and Women, who at their own hands without Liberty, never being bred in the Art  
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of Chyrurgery, take upon them to exercise the Duties and Points of that Art within the Suburbs of the said Burgh of *Edinburgh*, to the great hazard and loss of the Lives of many good Subjects, and to the great hazard, hurt and prejudice of the Brethren of the said Craft: Therefore His Majesties Dearest Father with Advice and Consent of the said Estates of Parliament, did Discharge all and whatsoever persons (except the Free-Men of the said Craft in *Edinburgh*) to use and exercise any Point of the said Art of Chyrurgery within the said Burgh of *Edinburgh*, or any Suburbs about the same or belonging thereto, and Jurisdiction thereof, with power to the Deacon and Masters of the said Art then present, and to their Successors in all time thereafter to come at all times convenient pass, search, take and apprehend all such persons, exercising the said Art within the said Burgh, Suburbs and Jurisdiction thereof foresaid, not being Free-Men of the said Art within the said Burgh, and to cause them set Caution to desist in time coming, and if they failzie, to unlaw them in the Sum of Twenty Pounds Scots Money *toties quoties*: And this was ordained to be done with concurrence of the Magistrates of the said Burgh of *Edinburgh*, and the saids Magistrates are ordained to be Judges in all contraversies that should arise hereanent, betwixt the saids Chyrurgions and Barbars, & any within the saids Bounds, and als are ordained to concur with the saids Chyrurgions and Barbars, to the effect foresaid, als the said Act of Parliament of the Date foresaid at more length proports. Moreover, the saids Provost, Baillies, and Council of the Burgh of *Edinburgh*, by their Act Dated the 8th Day of December 1643 years, mentioning, that *For some tyme* as, it having come to the knowledge of the Provost, Baillies and Counsel of the said Burgh that there were diverse Differences likely to arise betwixt the Deacon and Brethren of the Chyrurgions on the one part, and the Apothecaries of the said Burgh upon the other part, and especially anent the cureing of all kind of Imposthumes, Ulcers, Fractures, Dislocations, Cancers, Imbalming of Dead Corps, Applying of Sparrs Draps, Cureing of Vartol, Scurvies, Water-Cankers, Diseases of the Hernia, Buboes, making of Phlebotomie, applying of Ventoses, Fomentations, Loch-leeches, Canters, Veficatores, Applying of Plaisters, and all other manual Operations, which were thought by the saids Chyrurgions properly to pertain to their Art, and yet were used indifferently by all the Apothecaries within the Burgh of *Edinburgh*, and thereby was like to grow to an great Rent and Division betwixt the saids Chyrurgions and Apothecaries, which the Provost and Baillies and Counsel of the said Burgh fore-seeing, and being willing to prevent the same: Therefore they appoint certain persons of their own number to Conveen before them both the saids Parties, and to try and cognosce what did properly belong to the saids Chyrurgions, and after conveneing of both Parties, and hearing of them, and considering their Rights, and after Report of their procedure to the said Council of *Edinburgh*, & after calling and compearing of both the saids Parties, and their consenting to the said Report, the said Provost, Baillies, and Council of the said Burgh of *Edinburgh*, Decerned and Declared, that the Application of Cere-Clothes to Dead Bodies within the said Burgh of *Edinburgh* and Liberties contained in the said Chyrurgions Gift, should properly belong to the saids Chyrurgions, and that it should not be lawful to any Apothecary nor their Servants in their Name to apply the said Cere Cloth, nor to them to direct any to apply the same: And ordained the saids Chyrurgions if they should be imployed by the said Apothecaries, to apply any Cere-Clothes made by them, not to refuse the same: And also Decerned and Ordained that all manual Operations and Applications about Dead or Living Bodies of Men, Women or Children, should properly, and only belong to the saids Chyrurgions, And Discharged the saids Apothecaries and their Servants from the using and exercising of any Operations or Applications in the particulars Above rehearsed, about the saids Bodies of Men, Women or Children, as the said Act of the Date foresaid at more length proports, And als the said Provost, Baillies and Council of the said Burgh of *Edinburgh* by another Act, Dated the 20 Day of April 1649 years, Taking to their consideration the prejudice which the Free-Men Chyrurgions and Barbars of the said Burgh did sustain by the Un Free-Men Chyrurgions and Barbars in the *Cannongate*, *Leith* and other Suburbs & Pependies of the same, They did therefore by the said Act require the Baillies of the *Cannongate*, *Leith* and others Suburbs within their Jurisdiction, ilk one of them for their own parts to be assistant to and to concur with the Deacon of the Chyrurgions and Barbars within their several bounds foresaid, and that none should exercise the said Craft, nor put out Signs nor Basons, while they obtained Liberty from the said Craft, and were subject to the Orders & Injunctions of the Deacon and Free-Men of the said Incorporation of the Chyrurgions of *Edinburgh*, as the said Act at more length proports. *Likewise*, the said Lord Provost



Provost, Baillies and remanent Council of the said Burgh of *Edinburgh*, by an other Act Dated the 27 Day of *June* 1649 years, appointed the Deceast *John Denholm* then one of the Baillies of the said Burgh to go down to the *Cannongate* with *Umquhile James Borthwick*, then Deacon of the Chyrurgeons, and to see Course and Order taken with the Unfree-Men, there, and with the Unfree Men Barbars in the *Cannongate*, conform to the foresaid Act and Order, of the Date the said 20 Day of *April* 1649 years foresaid, and that in respect that the Baillies of the *Cannongate* had slighted the said Ordinance, as the said Act of Council of the Date foresaid at more length bears: And sikklike the said Provost, Baillies, and Council of the said Burgh of *Edinburgh* by an other Act, Dated the 8th Day of the Moneth of *July* 1649 years, did call before them *Robert Priest* *Andrew Robertson*, *John Stevenson*, and *William Burn* Barbars of the *Cannongate*, and being demanded by the Council of the said Burgh of *Edinburgh*, what Right they have to exerce the said Art of Chyrurgery and Barbar Craft within the *Cannongate*, They absolutely denyed that they did exercise any point of Chyrurgery, but Barbar-craft allanerly, and ingenuessly declared in presence of the said Council of *Edinburgh*, that they had no Right to exercise that Craft, and that neither they nor that Calling were ever erected in an Company, not subject to a Deacon, but that they and their Authors and Predecessors did exercise the Trade at their own hand allanerly, without any Freedom, Tollerance, War and, Power, or Authority had, or obtained frae any of their Superiors in time bygone, and therefore the Provost and Council of the said Burgh of *Edinburgh*, Fand and Declared that the foresaid persons Barbars in the *Cannongate*, had no Liberty to exercise the Trade within no part of the Bounds, pertaining to the Jurisdiction of the said Burgh of *Edinburgh*, as in the said Act of Council at more length is contained. And likewise the Baillies of the *Cannongate* by their Act, Dated the 22 of *August*, 1649 years foresaid, Ordained the Barbars of the *Cannongate* to take in their Signs, until they become obedient to the Deacon and Trade of the Chyrurgions of *Edinburgh*, and accordingly *Robert Priest*, *John Stevenson*, *Andrew Robertson*, *John Bowstone*, *Robert Tule* and *Andrew Turnbull*, Barbars in the *Cannongate*, Compeared before the saids Baillies, and willingly, and of their own accord, did in Obedience to the foresaid Acts and Orders, submit themselves thereto, and were willing to subject themselves to the Deacon and Craft of the Chyrurgeons of *Edinburgh*, their Orders and Injunctions, as in the said Act at more length is contained. And in like manner, the saids Provost, Baillies, and Council of the said Burgh of *Edinburgh*, by another Act Dated the 12th day of *August* 1649 years, relative to the foresaid Acts above-written, mentioning, that notwithstanding of the saids Acts, the Baillies of the *Cannongate* had done no Diligence against Unfreemen; therefore the saids Provost, Baillies, and Council of the said Burgh of *Edinburgh*, ordain the Baillies of the *Cannongate* Regality and Barony of *Broughtoun* the Baillies of *Leith*, Barony of *Portsburgh*, and other Pendicles within the Jurisdiction of the said Burgh of *Edinburgh* and their Successors, or their Officers in their Names, within their severall Bounds respective foresaid to give their Concurrence to the Deacon of the Chyrurgions and Barbars of the said Burgh of *Edinburgh*, in taking Order with the Unfreemen Chyrurgions and Barbars, and all such as were Disobedient to their Orders and Injunctions, within their severall bounds respective above written: and especially ordained the Baillies of the *Cannongate* to Discharge the Persons above-nominat, and the Barbars within their bounds and all other persons whatsoever, from taking upon hand to exercise the said Art of Chyrurgery, or Barbar Craft, and from putting out Signs and Basons in time coming, till they obtain Liberty from the Chyrurgions, and Barbar-Craft of *Edinburgh*, under the Pain of Imprisonment of their Persons, and paying of 20 lib. of Unlaw toties quoties, and farther Censure as effeirs. And sikklike, ordained the Baillies to take in their Signs and Basons, and to compe them to Obedience. And in case the saids Baillies should happen to neglect or slight their Duty, then, and in that case, the Magistrats of the said Burgh of *Edinburgh*, or the Deacons of the said Chyrurgions and Barbars of *Edinburgh*, with Concurse of the Officers of the said Burgh of *Edinburgh*, are Authorized by the said Act, to pass to the said Burgh of the *Cannongate*, and respective places foresaid, and to Discharge the saids Unfreemen, and to compe them, and all other Persons whatsoever, exercising the said Trade of Chyrurgery, and Barbar-Craft, to the Obedience of the said Act. And gave Power to search and apprehend Unfreemen, and use Probation against them as accords of the Law, and to do all and whatsoever other things requisit, for corbing of the saids Unfreemen, and bringing them to due Obedience or Punishment; and ordained the said Act to be extended against all Unfreemen within the haill Bounds of the Privilege, and Jurisdiction of the said Burgh of *Edinburgh*,  
Pendicles



Pendicles and Suburbs of the same whatsoever, in time coming, as the said Act at more length proports. And farther, the Baillies and Council of the said Burgh of the Cannongate, by an Act Dated the 2d day of August 1649 years, did Statute and Ordain Robert Priest, Andrew Robertson, Robert Tool, Robert Paterson, William Wairsdail, John Ferrih, Andrew Turnbull, William Burn, John Mackmath, Charles Scot, William Wright, John Beuston, Alexander Smith, and John Stevenstone, Untreemen and Barbars in the Cannongate, to take in their Signs and Balons, and to exerce no part of Chyrurgery, nor Barbarcraft within the Cannongate, nor Priviledges thereof in no time coming, while they obtain Liberty, and were subject to the Orders and Injunctions of the Deacon and Freemen of the Chyrurgions and Barbars in Edinburgh, and ordain the Upsets and Entries of all that should obtain Liberty, to exerce the Trade within the Cannongate, to the Will and Discretion of the Deacon and Trade of the Chyrurgions and Barbars of Edinburgh, and their Successors, and also ordained that the Prentices of such as should enter, and give Satisfaction to the said Deacon and Trade of the Chyrurgions of Edinburgh, should pay no more for the Burgeships than other Prentices, they always shewing a sufficient Testimonial that they are Booked in the Books of the Incorporation of the Chyrurgions and Barbars of Edinburgh, and no otherways, as in the said Act at more length is contained. Moreover, the saids Baillies of the Cannongate, by another Act Dated the 7th Day of February 1649 years foresaid, did Decern & Ordain their haill Barbars of the Cannongate, to compear before the said Deacon and Craft of the Chyrurgions of Edinburgh, within their conveening houses in the said Burgh of Edinburgh, and there to subscribe an Act in the Chyrurgion and Barbar Crafts Books of Edinburgh, to underly and be subject unto all their Decrees and Ordinances bygone and to come, and to give their Oath before the said Deacon and Craft for that effect, and that betwixt the date of the said Act and the 13th day of the said Month of September; with Certification to all these Unfree-men, who did not compear and give satisfaction to the said Deacon and Craft in Edinburgh, and that they should be left to the will and pleasure and disposing of the said Deacon and Craft in Edinburgh for their Upsets and Entries, and all other Dues that should happen to be imposed upon them by the said Deacon and Craft, and all other Unfreemen in time-coming, as in the said Act of the date foresaid at more length is contained. Attour, The saids Baillies of Cannongate, by another Act dated the 10th day of February 1654 years, Did Statute and Ordain, that every Prentice of the Barbers in the Cannongate should pay no more but 10 Pounds Scots Money for their Burgeship of that Burgh, the saids Prentices always showing an sufficient Testimonial that they were booked in the Books of the Incorporation of the Chyrurgeons and Barbers of the said Burgh of Edinburgh, and an sufficient Testimonial of the Deacon and Incorporation aforesaid that they have served out their Time fully with their Master: And farther, the saids Baillies did Statute and Ordain, that the haill Prentices of the Barbers of the Cannongate, their Designations and their Burges Tickets, should be Barbers allanerly, and not Chyrurgeons, as the said Act at more length proports. And farther, the said Provost, Baillies and Council of the said Burgh of Edinburgh, by another Act dated the 27th of June 1655 years, Did declare their said Act above-written, of the date in December 1643, to extend to the whole Apothecaries, and their Servants, present and to come, as if they were specially insert thereintill; and also, that the Apothecaries, Unfreemen of the Chyrurgeons has no liberty but as Burgeses. And sicklike, that the Operations and Applications contained in the Act of December 1643, upon the living and dead Bodies of Men, Women and Children, and the curing of the Diseases therein-mentioned, as Tumors, Wounds, Ulcers, Luxations, Fractures, curing of Verols, &c. and their accidents, by Operations Applications, Diet, Medicaments, and what else requisite to the compleat Cure, belongs properly to the Freemen Masters Chyrurgeons of the said Burgh of Edinburgh, being tryed in Theory and Practice, sworn and admitted to the degrees of Masterhip in Chyrurgery before the said Incorporation allanerly, and no other person whatsoever: And therefore did Statute and Ordain, that whatsoever Apothecaries, or their Servants, or any other persons whatsoever, who are not Freemen Chyrurgeons of the said Burgh of Edinburgh, should be found guilty of using or exercising any Cure, Operation, or Application Chyrurgical foresaid, or any part or point of their Calling, within the said Burgh of Edinburgh, Liberty, or Jurisdiction thereof, that they should be punished, and lyable in payment of the said Unlaw of 20 Pounds Money foresaid, conform to the Act of Parliament, so oft as the same shall be proved against them *pro ut de jure*, upon Complaint one or more *ipso facto* without any further Proces of Law: And seing that William Jackson, Servitor to John Hamilton Apothecary was found to have contraveened the said Act of December 1643, the said Provost, Baillies and Council, ordained him to pay the said Unlaw of 20 Pound *toties quoties* for ilk Fault, and referred the further Censure of his Misbehaviour to the Baillies. Likeas, The said Provost, Baillies and Council, did by the said Act, Ratifie and Approve



Approve the whole former Acts of Council made and granted in favours of the Chyrurgeons of the said Burgh of *Edinburgh*, as if the same had been specially insert in the said Act; and ordained Intimation thereof to be made to the Apothecaries, or any others concerned therein, that none might pretend ignorance of the same, as in the said Act at more length is contained. Conform to the whilk Act, the said *William Jackson* being fined by the Baillies, in the Sum of 40 Pounds Scots Money for two Faults committed by him, in applying of Cousters and letting of Blood at two several times, being upon a single Complaint, the one Fault confessed by himself, and the other refused by him to declare, upon being referred to his Declaration, and having payed the foresaid Sum of 40 Pound to the Baillies of the said Burgh of *Edinburgh*, they did send by the hand of *James Gray* one of their Officers, the Sum of 20 Pounds, as being the equal half of the said Fine, to the decessit *William Burnet* Deacon of the Chyrurgeons of the said Burgh of *Edinburgh* for the time, to be applyed by him for the use and behoove of the said Incorporation of the Chyrurgeons, conform to their Seal of Causes, Rights and Priviledges above-mentioned, as authentick Instruments taken thereupon in the Hands of *Robert Adamson* Nottar Publick, of the date the 10th day of *September* 1655 years, at more length proports. And in like manner, the said Provost Baillies & Council of *Edinburgh*, by another Act dated the 25 day of *Feb.* 1657 years, proceeding upon an Supplication given in to them by the Apothecaries and the Chyrurgeon-Apothecaries of the said Burgh of *Edinburgh*, did Statute & Ordain, that from thence-forth no person should be admitted to the Profession & Practice of the Art of Apothecary within the Burgh of *Edinburgh*, or Liberties thereof, but such as ( having obtained the Freedom of being Burges and Gild-Brother of the said Burgh ) should make their Address by Petition to the Council for their Recommendation to the Apothecaries and the Chyrurgeon-Apothecaries, and their Successors for their Tryal and Examined, and that Report should be made by the Apothecaries and Appothecarie Chirurgeons and their foresaids to the Counsel of their Abilities and Qualifications in the said Art, in which case the Council is to admit them to that Profession; and for that effect the Council of the said Burgh of *Edinburgh*, gave Power, Warrant and Commission to the saids Appothecaries, and Chirurgeon Appothecaries, and their foresaids in all time coming, to Try and Examine the Abilities and Qualifications of all such Persons who intend to converse with, profess and practise the said Art within the said Burgh and Liberties thereof, being recommended in manner foresaid; And did Statute and Ordain that no manner of Person, or Persons whatsoever, within the said Burgh and Liberties thereof, should not presume nor take upon hand to profess, nor practise the said Art of Appothecary, or any part or point thereof privately or publickly, who should not be admitted and found Qualified in manner above-written, under the pain and punishment of the Contraveeners in their Persons and Estates: And likewise, did Statute and Ordain, That the Baillies, one or more for the time, with the *Dean of Gild*, and two or more of the Appothecaries and Chirurgeon-Apothecaries, and their foresaids, to be nominat & appointed by the Council, being Persons of most approved Integrity & Skill, should from time to time visit the Sufficiency of all sorts of Drugs within the said Burgh of *Edinburgh* and Liberties thereof, and Seize upon such Drugs as they should find insufficient, and Report the same to the Council, whereby the Havers and Users thereof may be condignly punished in their Persons, Estates, according to the Quality of their Fault, and their Fines and Penalties to be applyed to the Use of the Good Town of *Edinburgh*, as the said Act of the Date foresaid at more length proports. And als the said Provost and Baillies of the said Burgh of *Edinburgh*, by their Act dated the ninth day of *November* 1660 years, mentioning that it pleased the Council of the said Burgh of *Edinburgh*, to make choice of the decessit *Arthur Temple* Chirurgeon, to be one of the Captains of the said Good Town of *Edinburgh*: And seeing that by the Laws and Customs of most part of Kingdoms and Nations, Men of that Profession are always exempted from any such Charge and Office; Their Calling being such, wherein the very Lives of People are concerned, besides that the said Incorporation of the Chirurgeons having many and divers antient Rights, Liberties, Priviledges and Immunities granted to them and their Successors; and Ratified by Kings, Queens and Parliaments of this Kingdom. And therefore, the Deacon and Brethren of the said Incorporation of the Chirurgeons, by Their Supplication given in to the Council of the Good Town, did desire that they would make choice of others to be their Captains, and to Supplie their other Offices and Places of that sort, and that the Chirurgeons might be Free thereof in all time coming, and that they might have the full Employment and peaceable Possession of all their several Rights, Priviledges, Immunities and Exemptions granted and Ratified to them, and Ratified in manner above-mentioned.



The said Council of the Good Town of *Edinburgh*, having taken the said Supplication to their consideration, did find the same Just and Reasonable, and necessary for the Good of the Leidges, and for the Incouragement of the Chirurgeons to the due Tyes of their Callings; and therefore, did grant to the saids Chirurgeons, Free-men of the said Burgh of *Edinburgh*, and their Successors in that Calling, that they should be free of all the Offices, or any Charge of that kind in all time coming; As also, that they should have the full Employment and peaceable Possession of all their other several Rights, Priviledges, Immunities and Exemptions granted, or Ratified to them by the Kings, Queens and Parliaments of this said antient Kingdom of *Scotland*, or by the Good Town heretofore in their Favours, within the said Good Burgh of *Edinburgh*, or Liberties thereof, of whatsoever Date or Dates, as if the same had been Repeated, and specially Insert in the said Act, and that for them and their Successors, Chirurgeons Free-men of the said Burgh in all time coming. And did Statue and Ordain that none should Molest them therein, nor pre-judge them of the same in time coming, under the Pains and Penalties, notwithstanding of any Acts, practices, or any other thing else to the contrair, as the said Act at more length bears; Likeas, in an Court of Justiciary of the said Kingdom of *Scotland*, holden within the said Burgh of *Edinburgh*, upon the ninth day of March 1674 years, by the Right Trustie and well beloved Cousin and Counsellor John Earl of *Athole* (now Marquis of *Athole*) His Majesties Justice-General of the said Kingdom for the time, and Sir James Foulis of *Goldingoun* Knight, Sir Robert Nairn of *Strathbuck* Knight, Sir John Baird of *Newbyth* Knight, and Sir Thomas Wallace of *Craigie* Knight. Lords Commissioners of Justiciary, John Joissie Deacon of the Chirurgeons of the said Burgh of *Edinburgh* for the time for himself, and in Name & behalf of the remanent Members of the Chirurgeons, and Chirurgeon Apothecaries within the said Burgh of *Edinburgh*, did present a Petition, shewing that notwithstanding of the manifold Liberties, Priviledges, Immunities, & Exemptions granted to the said Incorporation of the Chirurgeons in manner above-written, Extremand them from passing upon Affizes and Inquists Criminal and Civil, yet nevertheless several Members of the said Incorporation were daily troubled and molested by the Officers of the Court of Justiciary, and Summonds to compare upon Sizes without respect to their exemptions, as the said Petition at more length bears; The said Lord Justice General, and Lords Commissioners of Justicie, having considered the foresaid Petition, together with the several rights, Exemptions and Ratifications produced for instructing thereof, did discharge all Messengers at Arms, Macers of Court of Justiciary and other Officers whatsoever, from Cuing and Summonding of any of the Chirurgeons of the said Burgh of *Edinburgh*, to pass upon Affizes and Inquists in Actions Criminal in time coming, and that conform to their Gifts and Rights above specified, as an Act of adjournal made thereanent in favours of the saids Chirurgeons more fully bears: and sikklike in an other Court of Justiciary holden within the said Burgh of *Edinburgh*, by the said Sir James Foulis, Sir Robert Nairn, Sir John Lockhart of *Castlehill*, Sir John Baird, and Sir Thomas Wallace above designed Lords Commissioners of Justiciary, upon the 29 day of July 1674 years, anent criminal Letters raised, used and execute at the instance of Margaret Dalmahoy, Relict of the deceased James Ralstone Glasier in the *Cannongate*, James, Margaret, Kathrine, Agnes and Helen Ralstons his children for themselves, and in name and behalf of the remnant Kin and Friends of the said Defunct, and his Majesties Trustee Counsellor Sir John Nisbet of *Dirlton*, Knight then His Majesties Advocate for his Highness interest in that matter, and William Mason Mason in the *Cannongate*, then Prisoner in the Tolbooth of *Edinburgh*, divers and sundry of the Freemen Chirurgeons of the said Burgh of *Edinburgh*, being called to give their opinion, whether the said deceased James Ralstone did die of wounds mentioned in the saids other criminal Letters, and they having given in their opinion in Write thereanent, it was alleged by the Advocats for the Pursuers, that no respect could be had to the foresaid report, unless the saids Chirurgeons were comparing personally and Deponing thereanent, and therefore craved that the saids Chirurgeons might be unlawed for their absence, unto which it was answered, that the Chirurgeons could not be unlawed nor forced to Depone, nor give their Oath anent their opinion, they being *jurati magistri*, and so the Oath given at their admission behoved to have credit, as to what concerned the skill and faithfull discharge of their Employment, the Lords Commissioners of Justiciary having considered the Premises in respect that the Chirurgeons cited in that case were not cited as Witnesses to the Fact, but to give their opinion upon the quality of the wounds, and therefore by their Interlocutor refuse to unlaw and amerciat the absent Chirurgeons, as in the Decreet and Proces led and deduced thereanent, and extracted under the Signe and Superscription Manual of



of Mr. Robert Martine Clerk to the said Justice Court at more length is contained : and farther, His Majestie and Estates of Parliament of this ancient Kingdom of Scotland, being convened in Anno 1670 years, and taking to their consideration, that the Art of Chirurgerie is an ancient worthy and free Art most necessary for the healths and Lives of the Subjects, and that the said Incorporation of the Chirurgeons and Barbours of the said Burgh of *Edinburgh* are an able and famous incorporation, whereby the Leidges have found large experience to their great advantage, both in time of Peace and War: and that Pharmacie is an ancient free and necessary Art for the health of the Leidges, and that the Brotherhood of the Apothecary and Chirurgeon Apothecaries of the Burgh of *Edinburgh* are an able and famous Brotherhood, and have given good proof thereof, Therefore, and for certain other good causes and considerations, his Majestie and the Estates of Parliament by an Act of Parliament dated the 27 day of *August* 1670 years, ratified and approved, and for his Majestie and his Successors, with advice and consent of the Estates of Parliament, perpetually confirmed the whole Acts, Gifts, Grants, Rights, Priviledges, Liberties, Immunities above and after mentioned, to wit, the said Act made given and granted by the said Provost Baillies and Council of the Burgh of *Edinburgh*, under their common Seal of caule, to and in favours of the Chirurgeons and Barbours of the said Burgh of *Edinburgh*, dated the 1. day of *July* 1505 years, and whole Rights Priviledges and Liberties and Immunities therein contained, and als the said Letter of Ratification and approbation made and granted by King *James* the fourth of worthy memory, under his Highness Privy Seal, of the date the said 13 day of *October* 1506 years, and sicklike, the said Letter of Exemption made and granted by the said decessit Queen *Mary*, of the date above mentioned, eximand the Chirurgeons from bearing of Armour, passing in battle in any Host, Reads, gatherings, Wars, Weapon showing, and from all compearing and passing upon Inquests and Assizes in any Action criminal or civil, and in like manner, the said Letter of confirmation and approbation made and granted by King *James* the sixth, his Majesties Grand Father, of most blessed Memory, under his Highness privy Seall of the Date at *Greenwich* abovespecified, confirmed to the saids Chyrurgeons and Barbours, the said Act and Seall of Causes, Letters of Ratification granted be King *James* the Fourth, and Letter of Exemption foresaid granted be the said Decessit Queen *Mary*, and likeas the foresaid Act of *Parliament* made and granted be his Majesties Dearest Father of Eternal Memorie, with advice and consent of his saids Estates of *Parliament*, to and in favours of the saids Chyrurgeons and Barbours of *Edinburgh*, of the Date the 17th day of *November*, 1641 years. And farther his Majestie with advice and consent of the saids Estates of *Parliament*, Ratified and approved, and for his Majestie and his said Successors, perpetually confirmed to the saids Chyrurgeons and Barbours of the said Burgh of *Edinburgh*, that the Acts following, viz. Ane Act granted be the Provost, Baillies, and Council of the said Burgh of *Edinburgh*, against Unfreemen Dated the said 10th day of *August*, 1649 years. Item, ane other Act granted be the saids Provost, Baillies and Council of the said Burgh of *Edinburgh* in their favours, anent their Rights, Priviledges, Liberties, and Immunities, and Prohibiting of Unfreemen, Dated the 22 day of *June*, 1655 years. And also ane other Act anent the saids Chyrurgeons, and Barbours their Rights, Previledges, Liberties, and Immunities and Exemption of the said Chyrurgeons fra Watchings Wardings, and others mentioned in the said Act granted to them, be the said Town Council of *Edinburgh*, Dated the said 9th day of *November*, 1660 years. And farther his Majestie for himself and his saids Successors with advice and consent of the saids Estates of *Parliament*, Ratified Approved and Confirmed, the foresaid Act granted be the saids Provost, Baillies and Council of the said Burgh of *Edinburgh*, under the Seal of Causes, in favours of the Appothecars and Chyrurgeon Appothecaires, anent Visitors, Examination of intrants, and Prohibiting of Unfreemen to Compone Drugs, and others therein mentioned, of the Date the said 25th day of *February*, 1657 years, and one other Act granted by the said Provost, Baillies and Council of the said Burgh of *Edinburgh*, for convening, Regulating, and ordering of the said Brotherhood, Dated the first day of *April*, 1659 years. As also an other Act containing ane Oath tendered be the said Town Council of *Edinburgh*, to the saids Intrants, at their Admissions Dated, the 18th day of *March*, 1664 year, and the haill Rights, Priviledges, Liberties, and Immunities respective contained in any of the saids Gifts, Grants, and Acts gaanted in favours of the Incorporation of the saids Chyrurgions and Barbours, and of the said Brotherhood of the Chyrurgeon Apothecaries, and Apothecaries, or that may be any ways interpret, or conceived in any of their Favours. His Majesties with advice and consent of the



es of *Parliament*, Ratified and approved, and for his Majestie and his said Successors,  
 Eternally Confirmed all other Gifts, grants, Decrees, made and granted be his Majesties  
 Royal Predecessors, and all Acts of *Parliament*, Acts of Burrows, and all and every one of  
 the Acts of Courts, and Town Council of *Edinburgh* and others, and any Ratifications there-  
 of, in favours of the said Incorporation of the Chyrurgions and Barbars, and Brotherhood  
 of the Apothecarie Chyrurgeons, and Apothecars of the said Burgh, and every one of them,  
 their Successors, Children, Prentices respective, anent their Rights Liberties Immuni-  
 ties and Priviledges of the said Incorporation and Brother-hood respective of whatsoever  
 Date, or dates Tenor or Contents, the samen be or bear with all that has followed or may,  
 follow thereupon in all and sundry the haill Heads, Points, Articles, Clauses, provisions  
 circumstances and conditions of all the saids Acts, Gifts, grants, Decrees, Ratifications and  
 others particularlie and generallie abovementioned, granted in favours of the said Incorpo-  
 ration and Brother-hood, or any of them after the Forms and Tenors of the samen in all  
 Points, dispensand with the Generality of the said Ratification. And his Majestie with ad-  
 vice and consent of the saids Estates of *Parliament*, Decerned and ordained the said Ratifi-  
 cation and Confirmation, to be also Valid, effectual and sufficient to the fornamed Persons,  
 and their Successors respective, as if all the saids Gift, grants, Acts of *Parliament*, Acts of Bur-  
 rows Decrees, and Acts of Court and Town Council of *Edinburgh* and others, and Ratifica-  
 tions foresaid, were all and every one of them at length, and *verbatim* speciallie and particu-  
 larlie Insert, ingrossed and contained in the said Ratification. Whereanent, and anent all  
 other defects and imperfections, that could be proponed or alleadged in all Objections of  
 Law, that could be moved against the samen. His Majestie with advice and consent fore-  
 said, not only Dispenced, But also Renounced and Discharged the samen for ever, and gave  
 full power to the saids Chyrurgeons and Barbars and Brother-hood foresaid, of the  
 said Chyrurgion Apothecaries, and Apothecaries of the said Burgh of *Edinburgh*,  
 and their said Successors, to make use of all the saids Acts, or any of them without prejudice  
 of one to other to their best behocfe and advantage, as they shal think fit, and for effect-  
 uating better of the haill Premisses and ends foresaid. His Majesty with advice and con-  
 sent of the Estates of *Parliament*, ordains the Magistrats and Council of the said Burgh of  
*Edinburgh* and their Successors, to maintain the saids Chirurgeons afore said, their Children,  
 Apprentices and Servants, in their haill Rights, Liberties, Immunities and priviledges what-  
 soever, granted in their favours; notwithstanding that any of them should exerce any  
 other thing besides, as Burgeses and Gild-brethren, and as if they did not the samen; And  
 sikelike ordained the saids Magistrats of the saids Burgh of *Edinburgh* and other Judges,  
 Sheriffs and Magistrats of the said Burgh of *Edinburgh* and Sherifdome thereof and their  
 Officers to assist and concurr with the Deacon and Brethren of the said Incorporation of the  
 saids Chyrurgeons and Barbars, and with the visitors and Brethren of the Brotherhood of  
 the Chyrurgeon Apothecaries, or any of them and their said Successors Respective, against  
 any Person or Persons, who should exerce or practise any poynt or part of the said Art  
 Respective within the Liberties of *Edinburgh*, or any other place within the Sherifdome  
 thereof, without licence or freedome from them, under the Respective Seals and Clerks  
 hands; the Major partie being an *quorum*, and against any person or persons who con-  
 traveen any of the Respective Rights, Liberties and Priviledges within the Bounds fore-  
 said; As also, any persons amongst themselves, Contraveeners of their own Acts and or-  
 ders thereafter, and to exact Fynes, Unlawes and Penalties therefore, from them and  
 from other Transgressors as aforesaid, and to search, take, apprehend, p ynd and waird  
 them for the samen, the one half of the saids Fines of unfreemen, to belong to the Council  
 of *Edinburgh*, and the other half of the said Incorporation and the Brotherhood foresaid  
 Respective, and if any person should find & apprehend themselves prejudged or wronged  
 aither by the determination of the said Incorporation or Brotherhood Respective, contrair  
 to the Laws, Rights and Liberties, priviledges and power granted to them, or either of  
 them, that then in that case, they should have the recourse of the Magistrats and Council  
 of the said Burgh of *Edinburgh*, who may determine in these cases for both parties, as in  
 the said Ratification and Act of *Parliament* at more length is contained, by vertue of the  
 whilk Seal of Causes, Ratifications thereof, Letters of Exemption granted by Queen *Mary*,  
 Letters of Confirmation and Approbation granted by King *James* the sixth His Majesties Grand-  
 father, and Act and Ratification of *Parliament* granted by King *Charles* the first, His Ma-  
 jesties Father of eternal Memory, and haill other Acts, Gifts, Grants, Decrees of Court  
 and Town Council of the said Burgh of *Edinburgh*, and His Majesties Ratification  
 and Act of *Parliament*, granted in manner Above-mentioned, and be ver-  
 tue



tue of several other Acts, Gifts, Grants, Acts of Town Council, and Court of the said Burgh of Edinburgh, Acts and Decrees of the Town Council and Court of the Cannongate, and Acts and Decrees of the Sheriff Courts of the Sheriffdom of Edinburgh, and Acts and Decrees of the Baillie Court of Leith, Portsburgh and Potterrow, and Acts and Statutes made by the said Incorporation of Chyrurgeons and Barbers of the said Burgh of Edinburgh, amongst themselves, and by the said Brotherhood of the Chyrurgeon Apothecaries, and Apothecaries among themselves, not above exprest nor set down, and whilks are all holden as herein till insert and exprest, as a part of this principal Lybel *brevitatis causa*. The said Incorporation of the said Chyrurgeons and Barbers of the said Burgh of Edinburgh and Chyrurgeon-Apothecaries, Pursuers above-nominate, for themselves and in name and behall of the said Incorporation, and their saids Predecessors the Freemen Chyrurgeon Barbers and Chyrurgeons-Apothecaries of the said Burgh of Edinburgh, have been in peaceable Possession of the foresaid Rights and Priviledges contained in their said Seal of Causes, Gifts, Grants, Acts, Decrees, and others particularly and generally above-mentioned, past all memory of Man. And they and their said Successors Freemen Chyrurgeons and Barbers of the said Incorporation, they ought and should have the only Right and Priviledge to use and exerce the hail Operations and Applications contained in their saids Gifts, Grants, and others Writs and Rights, and particularly the hail Operations and Applications contained in the said Act of December 1643, upon the living & dead Bodies of Men, Women & Children, and the Curing of their Diseases specially in their saids Rights, as Tumors, Wounds, Ulcers, Luxations, Fractures, curing of Verrols, and others above-written, and their Accidents, by Operations, Applications, Diet, Medicaments, and what elie belongs thereunto, properly appertains to the Freemen Masters Chyrurgeons of the said Burgh of Edinburgh, being tryed in Theory and Practice, sworn and admitted to the Degrees of Mastership in Chyrurgery by the foresaid Incorporation allanerly, and to no other person or persons whatsoever. Nevertheless, It is of Verity, that the persons after nominate, simple Apothecaries, Unfreemen Chyrurgeons, Unfreemen Barbers, Perewigmakers, Gardiners, Country Leiches, Women, Ignorants and Impostures after designed, als well who have their actual Residence, Dwelling and Abode within the said Burgh of Edinburgh and Liberties thereof, and bounds contained in the Gifts, Grants and Priviledges above-written, as these who Lurk, Skulk, Haunt and sometimes come within and sometimes without the Bounds foresaid, and who are Vagrants, viz. John Kennedy Apothecary Burges of Edinburgh, John Fowlis Elder, Robert Campbell, Hugh Nielson, James Aickenhead, James Landin, Patrick Cunningham, John Hepburn. Mr. James Mackmath, Mr. Alexander Hay, John Fowlis younger, Thomas Dalrymple, and Patrick Hepburn Apothecaries Burges of the said Burgh of Edinburgh, Walter Porterfield Apothecary in the Cannongate, George Mackala Apothecary in Leith, Edward Cunningham Peirwigmaker in Edinburgh, James Robertson Barber there, John Brown Gardiner in the Abbey of Holy-Rood-House, Andrew Jackson Gardiner in West-ports burgh, James Henghson Gardiner in the Pleasants, George Bell pretended Chirurgeon in Edinburgh, Euphane Barton indweller in Edinburgh and John Bigle her Husband for his Interest Wilson Relict of the Deceast Hary Burn and Johanni Baptista Quarantini and Johannes Michael Philo Montibanks and certain other persons unfree Women Gardiners and Montibanks within the said Burgh of Edinburgh and Liberties thereof who are holden as herein repeated *brevitatis causa*, dayly and continually take upon them to use and exerce the Practice of Chirurgerie, and all other Points and Practices used and exercised by the Chirurgeon Barbers and Chirurgeon Apothecaries within the said Burgh of Edinburgh, and als to use and exerce the hail Rights, Liberties, Immunities, Priviledges be onging to the saids Pursuers Freemen foresaid, albeit they have neither Right nor Interest to the same; And therefore it ought and should not only to be found and declared by Decree and Declarator of the Lords of Council and Session, that the said Pursuers and their Successors the Freemen Masters, Chirurgeons and Barbers of the said Burgh of Edinburgh being tryed in Theory and practice Sworn and admitted to the Degrees of Mastership in Chirurgerie by the said Incorporation, and the Chirurgeon Apothecaries of the said Burgh of Edinburgh, have the only good and undoubted Right to bruick, enjoy and possels, use and practice the hail Rights, Liberties, Freedoms, Priviledges, Operations, Applications and others contained in their Acts, Seals of Cause Exemptions, Ratifications, Decrees and other Writs particularly and generally above-mentioned granted in their Favours and to use and exerce the hail Operations and Applications upon the Living and Dead Bodies of Men, Women and Children, and the cureing of all Diseases, Incident and Accident to them particularly and generally above-mentioned and their Accidents by Operations, Ap-  
plication



plications, Dyet, Medicaments, and others whatsoever belonging thereunto, and that the same properly appertains to the saids Pursuers, Free-men and Masters foresaid and to their Successors Free-men and Masters being tryed in Theory and Practice, and Sworn and Admitted to the Degrees of Mastership in time coming in manner above-written, and to no other person or Persons, and farther it ought and should be found and declared by the Decreet and Declarator of the saids Lords of Council and Session, that the saids Pursuers may by themselves their Deacon, officier and others not only apprehend any of the saids Defenders, if they can take them *flagranti delicto*, but that they may also cause cite them before the saids Provost, Baillies and Town Council of *Edinburgh* or other Magistrats thereof, for contraveening any of the foresaid Priviledges, Liberties, Freedoms and others above-written, and refer the Contraveentions foresaid to the Oaths of the said simple Apothecaries and others Contraveeners and Defenders above nominat, if the said Pursuers think fit or to use all other manner of Probation against the said Defenders and Contraveeners foresaid *pro ut de jure*, and it ought and should be found and declared, that the saids Defenders and all others concerned, shall be holden bound and oblidge to depone upon all the matters of Fact, that shall be particularly referred to their said Oaths in their respective Pursuits, that shall be intended for the Contraveentions, before the said Magistrats of *Edinburgh*, and als it ought and should be found and declared, that the Provost, Baillies and Council of *Edinburgh* are the only Judges competent in the first instance to the saids Pursuits to be intended against all Contraveeners, for contraveening any of the saids Pursuers Priviledges above-specified, and to discuss the same Summarly, according to the Custom of Burgh; And the Pursuers thier contraverted Practice in vindicating the Priviledges, but also, the saids Defenders above-mentioned, and all other Unfreemen, Gardiners, Women and others whatsoever, ought and should be decerned by Decreet of the saids Lords of Council and Session, to desist and cease from all using and practising and exercising of any Point, Part or Prctice belonging to the saids Pursuers, and ought and should be discharged by Decreet foresaid, from taking upon them to Use, Exerce, or Enjoy any of the Rights, Liberties, Priviledges, Immunities and Exemptions given and granted to the saids Pursuers, and properly belonging to them and their Successors, after the form and Tenor of the saids Acts, Seals of Causes, Ratifications, Exemptions, Gifts, Grants, Acts of Parliament, Decreets and other Writs particularly and generally above-mentioned in all Points as is alledged as the said last Summonds and Execution thereof likewise more fully bears, the said Mr. James Nisbet for himself and in Name and behalf of the remanent Brethren of his said Trade, pursuers of the foresaid Lybel, as likewise pursuers in the foresaid Action of Declarator raised at their instance, and Defenders in the other Action raised against them, Compearing be Sir George Mackenzie his Majesties Advocat, Sir John Lauder, & Mr. Colen Mackenzie his Majesties Advocats, their Procurators, who for instructing the foresaid libel produced in presence of the saids Lords, and Condescendence made by the Chirurgeons upon the several acts of Contraveentions done by the said Patrick Cunningham, whereby he had usurped upon the priviledges only belonging to the free-men Masters of the Art and Trade of Chyrurgery within the said Burgh and Liberties thereof. 1. The said Patrick Cunningham within this half year or thereby, did cure Barbara Hastie daughter to umquhil Heastie Stabler in *Edinburgh* of an broken Head, by applying Plasters thereto and otherways. 2. The said Patrick Cunningham did open an Vein to, and let Blood of the Lady Lee younger, within these five or six Months or thereby. 3. The said Patrick Cunningham applyed Plasters to the said Lady Lee her Arme, the same being strained or hurt by some Accident or other at or about the time foresaid. 4. The said Patrick Cunningham opened an Vein to, and let Blood of Servitrix to the said Lady Lee within five or six Months or thereby. 5. The said Patrick Cunningham opened a Vein to, and let Blood of the Earl of Carnwath, and applyed Lochlatches one or moe, and Cauters one or moe to the said Earl, within the space of three years or thereby. 6. The said Patrick Cunningham opened a Vein to, and let Blood of Semple daughter to umquhil John Semple of Balgowne, and applyed two Couters to her within the space of this half year or thereby. 7. The said Patrick Cunningham did frequently pance and dress within the house of at the head of the Cannongate who had a wound in his Breast within these three or four yeass or thereby. 8. The said Patrick did apply several Plaisters, and that frequently to umquhil William Cunningham elder Merchant in *Edinburgh* his fore-foot, within these three years or thereby, the said Patrick Cunningham opened an Vein to, and let Blood of umquhile Henry Cunningham and his Spouse, and applyed Couters, Plasters and Oyntments to them within these three years or thereby,



as the said Condescendence extent in process more fully bears, as also for veresifying and instructing the Points and Articles of the foresaids Summonds of Declarator, and the Rights of priviledges of the said Incorporation adduced in presence of the saids Lords the particular Writs under-written, conform to an Inventar thereof, whereof the Tenor follows, *viz.* The Seal of Cause, dated the 1. of July 1505, erecting the Chyrurgeons into an Incorporation under the Town of *Edinburgh* their Seal of Cause. *Item*, Letters of Ratification thereof by King *James* the Fourth, under his Privy Seal, dated the 13 day of *October* 1506 years. *Item*, Letters of Exemption by Queen *Mary* under her Privy Seal, dated 13 *May* 1567 years. *Item*, Signatur by King *James* the 6th. subscribed by the Lords of Thesaury, ordaining an Letter of Ratification to the above-written Rights, to be expd under his Privy Seal, dated 6 *June* 1613 years. *Item*, the Ratification following thereupon by King *James* the 6th, under his Privy Seal, dated the 6 of *June* 1613 years foresaid. *Item*, An Act of the Council of *Edinburgh* in favours of the Chyrurgeons, dated 10 of *September* 1641 years. *Item*, An Ratification in Parliament of the above-written Rights in favours of the Chyrurgeons, dated the 17 day of *November* 1641 years. *Item*, An other Act of the Council of *Edinburgh* in favours of the Chyrurgeons dated the 8 of *December* 1643 years. *Item*, An other Act of the Council of *Edinburgh* against unfree-men in the *Cannongate*, *Leith*, and other Suburbs, dated the 20 of *April* 1649 years. *Item*, An other Act of the Council of *Edinb.* against the Barbers in the *Cannongate*, dated the 27 of *June* 1649 years. *Item*, An other Act of the Council of *Edinburgh* against the Barbers in the *Cannongate*, dated 18 day of *July* 1649 years. *Item*, An Act of the Council of the *Cannongate* against their Barbers there, dated 22 day of *August* 1649 years. *Item*, an Act of the Council of *Edinburgh* against the Unfreemen in the *Cannongate*, dated 12 day of *August* 1649 years. *Item*, Two Acts of the Council of the *Cannongate* against Unfreemen there, the one dated the 2d of *August* 1649, the other dated the 7 of *September* 1649 years, both upon one Parchment. *Item*, An Act of the Council of the *Cannongate* in favours of the Apprentices of Barbers there dated 10 of *Feb.* 1654 years. An Act and Decreet of the Council of *Edinburgh* in favours of the Chirurgeons against the Apothecaries, dated the 27 of *June* 1655. *Item*, An Instrument Deacon *Buriet* against *William Jackson* anent his two Fines, the one the 10 *Septem.* 1655. *Item*, An Act of the Council of *Edinburgh*, erecting the Chirurgeon-Apothecaries, Apothecaries into an Brother-hood under the Town of *Edinburgh* their Seal of Causes, dated the 25 *Feb.* 1657 years. *Item*, Exemption by the Town of *Edinburgh* in favours of the Chirurgeons, dated 9th *Novemb.* 1660 years. *Item*, An Act of Adjournal in favours of the Chirurgeons, dated the 9 day of *March* 1674 years. *Item*, An Extract of the Process pursued before the Lords of Justiciary by *Margaret Damahoy*, against *William Mason*, dated the 29 of *July* 1674 years. *Item*, An Ratification in Parliament in favours of the Chirurgeons, of their hail Rights. dated the 22 of *August* 1670 years. *Item*, An Act of the Council of *Edinburgh* against *John Savage* Unfree-man, dated the 4 day of *July* 1638 years. *Item*, An Act of the Bailies of the *Cannongate* against *William Steven* Unfree-man, dated the first of *January* 1653 years. *Item*, Condescendence by the Chirurgeons upon the Deeds of Contravention committed by *Patrick Cunningham*, *Item*, an Summonds of Declarator the Chyrurgeons of *Edinburgh* against the hail Apothecaries and others Unfreemen, with the Executions thereof, of the Date 1681 years, as the said Condescendence extent in process more fully bears. as also for veresifying and instructing the Points and Articles of the said Summonds of Declarator. and the Rights and Priviledges of the said Incorporation adduced in presence of the saids Lords the particular Writs above specified, and the said *Patrick Cunningham* Defender in the foresaid Libel, & he & the remanent Apothecaries of the said Burgh, Defenders of the foresaid Action of Declarator, raised at the saids Chyrurgeons their instance. & Pursuers in the other Action of Reduction & Declarator raised at their instance against them. Compearing by *Sir George Lockheart*, *Sir John Dalrymple*, and *Mr. David Cunningham* Advocats their Procurators, the foresaid Lybel and mutual Summonds of Declartor raised by both the saids Parties in manner above-re-hearsed with the Condescendence above-written, and particular Writs and Evidents produced for Instructing the said Chirurgeon Apothecaries their Rights and Priviledges in manner above-specified, together also with the several Debates and Interlocutors following thereupon in manner under-written, and together with the several Supplications and Answers made thereto, with the Instructions of the sames given in by either Parties in manner, and to the effect after-mentioned. being all at length heard, seen and considered by the saids Lords; and they therewith being well and ryply advised; The saids Lords of Council and Session, have found and declared, and hereby finds and declares that the Chirurgeons have the only Right of *Phibotomic*



me within the Town of *Edinburgh*, and upon the Burgesſes thereof, except in the caſes of Neceſſity and charity, and that where there is no Inciſion made upon dead Bodies, and that there is only Wrapping of the Body required, the Apothecaries makers of the Cerecloths may wrap the Bodies, but where Inciſion is made, the Application is proper to Chirurgeons of the Cerecloths to the Body; And finds and declares that the Employments of Chirurgery and Pharmacy being two diſtinct Employments, and both requiring a great deal of care and knowledge, ſhall hereafter ( within the City of *Edinburgh*, and Liberties thereof ) be Exercised by diſtinct Perſons, and that one and the ſame Perſon ſhall not Exercise, or be Employed in both Employments; and that albeit Chirurgeons may buy and ſell Samples as any Drogeſts or Merchants may do, and Compoſe ſuch Drogs as are neceſſary for Chirurgical and External Applications, yet that they cannot compoſe any *Medicament* to be taken internally by the Mouth, except and always from this Declarator, all the preſent Chirurgeon Apothecaries that are preſently actual Maſters in both Employments, and does actually keep Shops within the ſaid Town of *Edinburgh*, or Liberties thereof, as to which Bounds this Declarator extends: And no farther, as alſo, have declared, and Ordained the ſaid Chirurgeon Apothecaries Maſters, who as ſaid is, are allowed the Exercise of both Employments during their Lifetime, and *James Muirhead*, *John Lauder* and *Thomas Edgar*, who are declared to be in that Condition, albeit they be not as yet actually entered Maſters in both Employments, and to declare their Election betwixt and *Tuesday* next; And if they do not betwixt and the ſaid day, the ſaid Lords Decerns them to ſit only at the Chirurgeons Table as the Eldeſt and firſt erected Trade; and have found, and finds that no Maſter can hereafter take Prentices to make them Free-Men in *Edinburgh* in any of the ſaid two Employments, except that at which they ſit at the Table; and that all the Prentices already entered are to be Free only in that Employment and Trade, at which their Maſters ſits at the Table; *Beauſe* that after the ſaid Libel firſt intended before the ſaid Magiſtrats of *Edinburgh*, being Advocat of conſent as ſaid is. There was an Supplication given in to the ſaid Lords by the ſaid *Patrick Cunningham*, Shewing that where the Suppliant was lately Warned by one of the Town Officers to Compear before the Baillics in their Juſtice of Peace Court on the Afternoon, at the Inſtance of *Mr. James Niſbet*, preſent Deacon of the Chirurgeons of the ſaid Burgh, to be unlawed and Fined for alledged operating in Chirurgery, and in which Procedure he was Informed, the Baillics would upon his Appearance Summarily prove his Delict by his Oath, and immediately Charge him to the Tolbooth, without ſo much as allowing him an formal or written Libel with the benefite to Answer there againſt, and ſo fix a fault of contravention of their alledged Priviledges upon him, by no other way of Probation, but a preſent judicial Oath, which is, and ought to be Sacred to all, and more deliberately digeſted before given, then immediately to be Adminiſtrat to, and preſſed upon one hurried, but from off the Streets *hoc vel maxima atento*, that the Suppliant was herein Challenged for no nottar particular, or nominated Crime, but moſt what of Picque to pleaſe the Humours of the Chirurgeons *in regenerali dubia & invidioſa*, their Priviledges and manner of proving the Contraveening, and incroaching thereupon, having never as yet been by the ſaid Lords of Council and Seſſion, the only Judges competent thereto, lawfully as is requiſite declared, whereupon ( with all juſt reſpect to the Magiſtrats and their Authority; but becauſe of the ſtrange and unlawful Methods of the Chirurgeons probation ) having in a Bill of Advocation meaned himſelf to the ſaid Lords, the Lord *Forreſt* then Ordinary, was pleaſed to ſiſt Procedure till the 24<sup>th</sup>. Inſtant, as the foreſaid Bill and Signature thereupon, here preſent to ſhow Teſtifies: And we ſeing the Point did reſolve in that whether or not, the Petitioner was obliged ſummarily by his judicial Oath to fix delict, and we to Fine and unlaw upon the Petitioner at the humour of, and when ever called by the Chirurgeons; whereunto it was humbly conceived, that the Petitioner could not be obliged by Law; but that if they inſiſt againſt the Petitioner for operating in Chirurgery, the burden of the probation lyes upon them, and without a particular Statute and Law for that effect, it was humbly conceived no Subject can by the act of any inferiour Court or Incorporation, be obliged to give his Oath upon a delict, either for affixing any *Stigma* upon the Petitioners reputation, or damniſying the Petitioner in a pecunial Fine, and as the Petitioner has neither ſeen by what ground law or warrant, the Chirurgeons come to be authorized thus ſummarily to exact Oaths, ſo might the ſaid Lords but conſider the danger of the Subjects, and what a door of temptation ſuch methods and practices may open to perjurie, eſpecially when Chirurgical operations and operaring in Chirurgerie, are ſo ambiguous terms, that the



the *ultimum* and *minimum* terms of them hath never yet been designed; and it is hard for the Petitioner who served his Apprentiship to *James Barthwick*, and with him learned and saw something of Chirurgery, when he is with a Patient, be he never so near a Friend, or poor or indigent person who may be in a dangerous condition, and of an earnest mind to breath a Vein or such like, especially performing the *samen gratis*, to know how to give an *summar* Oath upon Chirurgical operations, for in its latitude it reaches to the least plaister for a cutted finger or scratch of a Pin, and although the *Chirurgeons* should have toisted in the taking of an Oath, in some acts of the Town Court, yet the *samen* cannot in Law be done, either by acts of their own calling, or Acts of the Town, to introduce upon his Majesties Leidges, such a strange and unusual and dangerous manner of probation, and although some such latent Acts might be ratified in the ratification of the *Chirurgeons* Right and Priviledge, yet Ratifications *nihil novi juris addunt*, and are still given *salvo jure cujuslibet*; and this case being of so universal concernment to his Majesties Subjects to prove delicts, and so from them exact Fines upon Oaths first, but imposed by and moulded in inferiour Courts Judges and Incorporations, for their own advantage therein concerned, as the said Supplication more fully bears, which being read in presence of the saids Lords, and they having heard seen and considered the *samen*, remitted the consideration thereof to the Lord *Forret* one of their own number, before whom the Bill of Advocation of the foreread Lybel was presented, and to call the Deacon of the *Chirurgeons* before him to have answered thereto, and to have done therein according to Justice, and in case of difficulty to have reported: and thereafter in obedience to the foresaid ordinance, both the saids Parties having compeared before the said Lord *Forret*, by their respective Procurators above named, the saids Procurators for the Deacon for himself, and in name and behalf of the remnant Brethren of his Trade, for instructing the Rights and Priviledges of the said Incorporation produced in presence of the saids Lords, the particular Writs above written conform to the Inventar thereof, particularly above narrated; with the foresaid Condescendence upon the several Acts of contraventions done by the said *Patrick Cunningham*, and thereafter repeated the foresaid Lybel, and craved Decreet conform to the said Condescendence, To which it was Answered and alledged for the said *Patrick Cunningham*, and remnant Apothecaries of the said Burgh, by their Procurators above named, that they were not oblided to debate until the Act of Advocation were given out with the Proces, and the *samen* seen and returned, and come in by course of the Roll. Whereunto it was replied for the saids *Chirurgeons*, that notwithstanding of the said alledgeance, the Defenders must either debate, or then the Pursuers must have Decreet, because the cause being advocat of consent of the Pursuers, and *esto* there were an Act of Advocation put up and Extracted, yet the only ground whereupon the Pursuers did Advocat was, that it was agreed to, that the cause should be instantly discussed, and the Lord Ordinary thereupon did cause the Pursuers to produce the Writs, whereupon they found their Priviledges, and two several dyets appointed by the Ordinary to debate, and the above written Bill was opposed given in by the Defender himself, wherein he craved the point might be instantly discuss, and the Lords thereupon remitted the same to the said Lord *Forret* to have heard both Parties, and discussed the same, or Reported. To which it was Duplyed for the said *Patrick Cunningham* by his saids Procurators to the foresaid Reply, They opposed the constant Practique in the like Cases, and the Bill and Deliverance thereof did only relate to the Reasons of Advocation; which Dispute above-written, being heard and considered by the said Lord *Forret*, he made *Avifandum* thereupon to the haill Lords. And upon Report thereof made by him to them, wherewith the saids Lords being well and ripely adviled, they ordained the Cause to be summarly discussed (without attending the order of the Roll, in respect the said Defender *Patrick Cunningham* did desire the same in his Bill,) and before the said Lord Reporter, and thereafter conform to the foresaid Interloquitor, the Cause being again called in presence of the said Lord *Forret*, and both the saids Parties compearing by their respective Procurators above-named, the Pursuers Procurators repeated the particular Condescendence above-written given in by them by way of Libel, and craved Decreet against the said Defender, in respect he refused to depone. To which the Defenders Procurators answered and alledged, That there could be no Proces summarly sustained upon any such Condescendence, there being no previous Citation or Libel, and the Pursuers Seal of Cause and other Rights produced cannot state them in any better condition then the rest of the Incorporation in *Edinburgh*, who are not in use, nor cannot summarly attack any person, but red-hand, or *flagranti crimine*; and the Town of *Edinburgh* cannot indulge the Chyrurgeons with any Priviledge



ledges, contrary to Fundamental Laws, which the Pursuers pretend to by the summar procedure, in calling free Burgeses, and convening them to depone *super inquirendis*. Whereunto it was Replied for the saids Pursuers, that the foresaid Alledgance ought to be repelled, in respect of the Pursuers Rights stating them in their Rights, with their Priviledges, which cannot be taken away summarly: and the Pursuers by vertue of the saids Rights, have been in the constant use of exercising their saids Priviledges against all Unfreemen, and the circumstances of their Calling, was the ground whereupon the saids Priviledges were granted, it being impossible to attack Unfreemen in their Calling, as in other Incorporations. And which last Dispute above-written, being also heard and considered by the said Lord Reporter, he made *Avifandum* thereupon to the saids Lords; and they upon Report thereof, made by him to them, Declared they would hear the Cause debate in their own presence, and to that effect ordained the same to be inrolled in the Roll of Causes to be discussed; and accordingly the said Action being inrolled, (and having come in by the course the Roll of Causes to be discussed,) was called *in presentia*; at which time both the saids Parties having likewise compeared by their respective Procurators above-named, the Procurators for the Chyrurgeon-Apothecaries repeated the foresaid Summonds of Declarator raised at their instance, and for instructing thereof, repeated the production formerly made by them of the particular Writs above-mentioned, which are of the several dates, tenors and contents *respectivè* libelled upon in the foresaid Summonds; As also, they repeated the foresaid Action before the Baillies of *Edinburgh*, against the said *Patrick Cunninghame*, for the particular Contraventions condescended on, and craved he might be holden as confest, in respect he refused to depone. Which Action being Advocat. They then insisted in the same, as likewise in the foresaid Action of Declarator of the Chyrurgeons their priviledges, upon the several priviledges contained in the Seal of Cause, and other Rights granted to them by the Town of *Edinburgh*, who by their Erection have power from the King to grant the same, and which Seal of Cause is ratified by King *James* the 4th, under the privy Seal, upon the 13 day of *October* 1506, and by King *James* the 6th likewise under the privy Seal upon the 6th of *June* 1613 years, and the Act of Town-Council dated the 10th of *February* 1641 years, and ratified in Parliament the 17th of *November* the same year, and several other Acts of the Town-Council in their favours, for the better exercising their Calling, which are all ratified in parliament upon the 22 day of *August* 1670 years, and whereof they have been in the controverted possession, as is instructed by several Sentences before the Town-Court of *Edinburgh* against the Contraveeners, wherein they craved it might be declared, that the saids Chyrurgeons have the sole priviledge of the exercising of Chyrurgery, and that all others Unfreemen might be declared, and that they might call the Contraveeners before the Magistrats, and use all legal probation against them, and that summarly, conform to their Rights and Customs of Burgh, and the above-named Procurators for the saids Apothecaries likewise Repeated the foresaid Summonds of Reduction and Declarator raised at their instances, by way of Defence: In which they insisted, *Primo*, Upon that Conclusion of the foresaid Summonds, that they cannot be obliged to depone for thir Reasons, 1. That it might involve the persons alledged Contraveeners in Perjury, seing it cannot be imagined that they can remember every individual Act. 2. It would oblige them to discover the Diseases & Conditions of their Patients, which were absurd & contrary to that Secrecy which their Calling obliges them to. *Tertio*, all the other Trades within the Town, and in all other places, that have as great Priviledges as the Chyrurgeons can pretend to, are not allowed to call them Freemen upon Oath, as to their Encroachments upon their several Trades, but all that is allowed them, is to Seale the Work, and if they can deprehend them in the Act, to punish them. *Secundo*, they Insisted in the second Ground of Declarator, *viz.* That the Chyrurgeons might hold them by their own Trade, and might not exercise the Art of both Chyrurgery and Pharmacy for thir Reasons, *Primo* in no well governed City, one and the same Person is allowed to Exerce distinct Trades. *Secundo*, if the same were allowed here, the Chyrurgeons being both Chyrurgeons and Apothecaries, would render the Apothecaries Employment as *de facto*. They do altogether insignificant, seing they as Burgeses can be Apothecaries when they please, and the Apothecaries cannot be Chyrurgeons, without they serve an Apprentiship, or Marry a Chyrurgeons Daughter, albeit they were never so well qualified, and the Art of Pharmacy being the nobler Art, as being conversant about the Inside of the Man, ought to have rather greater, as less Encouragements as Chyrurgeons. *Tertio*, they Insisted on the third Ground of their Declarator, *viz.* That the Liberty of making and applying of Searchcloths to dead Bodies, should be declared proper to them, in respect that the Searchcloth is a Drug, and is not made use of for any Chyrurgical Operation



tion, being applyed only to dead Bodies. And Insisted likewise upon the fourth Ground of Declarator, *viz.* That it should be Declared, that the Apothecaries has the only Priviledge of Administrating of Physick inwardly; and that Phlebotomy common to them, is the Chyrurgeons, in respect that Phlebotomy is often requisit in Inward Distempers, with which the Chyrurgeons does not meddle, and sometimes must be so speedily Administrat, as cannot admit of so much time as to send for a Chyrurgeon, without eminent Danger of the Patients Life, as in *Plurafies* and other violent Diseases. To which it was Replied for the Chyrurgeons, That notwithstanding of the Defence, *Patrick Cunningham* must Depone, or be holden as confest, nor cannot be Declared, that the Contraveeners of the Chyrurgeons Priviledges, shall not be obliged to Depone, in respect that by the Pursuers their Seal of Causes, it is expressly provided that they may use all legal Probation against the Contraveeners, and that the Oath of Parry is a legal Probation, cannot be contraverted. *Secundo*, They have been in constant Possession of this manner of Probation, the Deeds of Contravention being always within closs Doors, and often under silence of night persecuted in a sudden, and leaves not Work behind it, that may be apprehended as other Manual Trades does. And it is of no Weight, to pretend that it would be the Occasion of discovering Patients Diseases, for any that has a mind to conceal their Diseases may employ a Freeman, and so not incur the hazard. But to take off all Cavall, the Pursuers do Declare, that they are content it be Declared, that Unfreemen should not be obliged to Depone upon Contraventions in general, but where the Acts are particularly lybelled, as is particularly done in *Patrick Cunninghames* case here, which is a Confession more as in Law can be required, seeing Oaths in general, are frequently taken in things of less concern, as Multre-Oaths, cutting of Wood, killing of Fish, &c. As to the second Ground of the Declarator, *viz.* Chyrurgeons should not be Apothecars. *It is answered*, That the same is absurd, for this Reasons. *Primo*, For Erecting of the Fraternity produced, (for they are no Trade, and have no Seal of Cause as other Trades have) any Butgess of *Edinburgh* if he were a Black Smith, it free to be an Apothecary, if he be able to undergo a Tryal, and it were strange to allow it to all Burgeses, to deny it to the Chyrurgeons, who of all Burgeses are presumed to understand it best. *Secundo*, By the Erection of that Fraternity, it appears that the Chyrurgeon-Apothecaries were the great Procurers, And that they taking to their Consideration, that the Leiges were abused by unskillful Persons, taking upon them to sell and prepare Drugs, did procure the said Erection of a Fraternity, excluding unskillful persons that could not bide a Tryal. *Tertio*, By the said Erection of the Fraternity, it appears that the Apothecars were so far from being considered as a Trade, that they have not power of their own Tryal, but the Entrants must apply to the Town Council, and they appoint the Tryers; and they pay no Money for their Freedom, nor do they enter their Prentices amongst the Trades, but in the Gildrie as other Merchants do; and though they were a Trade as they are not, it is absurd to pretend, that if a man serve a Prentice, or otherways acquire his Freedom in two Trades, he may not serve in both or either as he pleaserh, as Merchants, Taylors, and several other Instances. As to the third Ground of Declarator, *viz.* That the making and applying Cere-Cloths should be declared proper to Apothecaries, *It is answered*, *Primo*, The Pursuers oppones the Seal of Causes and other Rights lybelled, whereby all the external Applications of Mens Bodies is declared properly to them. And the pretence that a Cere-Cloth is a Drugg of no Weight for the same may be pretended of all Plaisters, which uncontravertedly belongs to the Chyrurgeons. *Secundo*, It is already determined by the Town-Council, who by King and Parliament are declared Judges in all these controversies, who have allowed the making to Apothecaries, and the application to Chyrurgeons. And have provided, that if the Chyrurgeon refuse to apply the Cere-Cloths the Apothecaries makes, then the Apothecaries are free to apply themselves, which is more as the Apothecaries could in Law acclaim the Application being properly Chyrurgical, even where the Body is not eviscerat, where Chyrurgical Instruments is necessar for stopping the Opens of the Body, and making Incisions, in particular cases where a Chyrurgeons skill is necessary, and Embalming is always used in all Bodies, and Ligators, which are not only proper, but is one of the singularst Arts of Chyrurgery. And it is of no Weight that it is a burden to the Leidges, seeing it is very well known, and is provided by the Act of the Town-Court, That the Chyrurgeons are to be employed by the Apothecaries, and gets their acknowledgement from them, which they cannot refuse. *Likewis*, as there are many that being both Apothecaries and Chyrurgeons, where the Leidges desires only to have one employed, To the Fourth Ground of Declarator, *viz.* That it should be declared that the Apothecaries have the only





ly Application of Medicine inwardly. *As Likeways* have the use of Phlebotomie, common with Chyrurgeons: To which it is answered, That by the Erection and by all the Rights Lybelled, the Chyrurgeons have the sole power of Applications, Operations, and Medicaments, requisite for compleating the Cure of those Distempers, which are particularly narated in the A<sup>&</sup> One thousand six hundred and fourty three. And it were absurd to say that they could have the sole Cureing of a Distemper, and not the power of applying what is necessar for it, either outwardly or inwardly. And all that they pretend to, is the application of Medicaments for Cureing of the Distempers contained in their Rights, which are known by proper distinct Names to be such as falls under the Chyrurgeons skill, in all places of the World, And it was never before alledged that Phlebotomie was not properly a Chyrurgical Operation. And it is but a Frivolous pretence, that in some cases as in Pluracies it can admit of no delay; For it is well known, that within *Edinburgh* it is more easie to find a Chyrurgeon as an Apothecary, nor did ever the Chyrurgeons trouble any un-Free-Man in drawing of Blood in cases of necessity, nor using of the flit Pansing upon broken Legs or Arms, which is always permitted to be done by them that are nearest; and then Chyrurgeons is to be called at the second Application: Whereunto it was Duplyed for the Apothecaries by their Procurators, That albeit by the Seal of Causes the Chyrurgeons has several priviledges, As power to make Free-Men by Prenticeships, to keep a Box, & yet the particular Priviledges now insisted on are not there expressed, and so are to be determined by the Lords. To the which Duply above-written, The saids Procurators for the Chyrurgeons opponed their former Reply, and their Rights whereupon they Found, which does sufficiently determine all the points now contraverted, and remitted the same to the saids Lords their Consideration, Which haill Dispute above-written being heard and considered by the saids Lords, they before adviseing thereof, Recommended to the Lords Register *Newtown* and *Castlehill*, to call for Dr. *Stevenson* Elder, Dr. *Hay*, and Dr. *Balfour*, and to hear their Opinions as to the points contraverted betwixt the Chyrurgeons and the Apothecaries with their first convenience, and thereafter to report. Thereafter there was a Supplication given in to the saids Lords by the said Dr. *James Nisbit* Deacon of the Chyrurgeons of *Edinburgh* for himself, and in Name of the remanent Masters and Brethren of the said Incorporation, Shewing That where in the mutual Declarator raised by the Chyrurgeons, and Chyrurgeon Apothecaries against the single Apothecaries, and by them against the Petitioners. The Petitioners having Founded upon their Seal of Cause, and particular A<sup>&</sup>s and Priviledges granted to them by the Town Council of *Edinburgh* in conformity to their Seal of Cause Anno one thousand six hundred and fourty three, and one thousand six hundred and fifty five, long before the Settlement of the Fraternity of the Apothecaries, Having undoubted Right and Priviledge to exercise all manual Operations and Applications upon the Living and Dead Bodies of Men, Women and Children, and that exclusive of all persons within the Burgh, who are not Free-Men of their Art: And containing also several Specialities, whereunto the most eminent Apothecaries at the time were consenting, and to which all of them since have Acquiesced and Confirmed, except a few Claudistyne Contraventions, of which when notice was had, the contraveeners were Fined, and being informed that the Petitioner upon consideration of the Debate; Have thought fit to recomend to some of the saids Lords, their number to call three Physicians and hear their Opinion anent the proper Bounds, and limites of these two Arts. As to which the Petitioners humbly represent, to the saids Lords. 1. That if the Chyrurgeons, and Apothecaries had been erected in ancient and distinct Crafts or Arts, within Burgh in general Terms, viz. That such an Society and Companie, should be Chyrurgeons, and such an Society and Company Appothecaries, and that a question had then arisen betwixt them in any Point or Points, which each of them had contended to be ane Proper Point of their Arts, or to be common to both; That in such a case of general Gifts and concessions, their might be some ground of Calling Physicians to give Opinion in what might be proper to either calling or common to both, but here it is uncontraverted, that the Chyrurgeons have most anciently formed and erected Corporation and Craft, injoying Priviledges and Freedoms, which no Burges nor Gild Brother in *Edinburgh* can partake of, unless he Serve an Apprentiship in the said Art, or be the Son, or Marie the Daughter of ane Free-man, and on the other side, that the Apothecaries were never ane distinct calling or Art, but allenerly Burgeses and Gild Brother, and had never any Priviledge beyond ane Burges and Gild brother, so that any Gild Brother might have Set up for an Apothecarie when he pleased, until the year 1657 that a tryal was thought fit and necessar, in order to which they were Erected in a Brother-hood, joyntly



jointly with the Chyrurgeon Apothecaries. And whereof, notwithstanding of their Erection any Gild Brother, who can bide a tryal may be a Member at pleasure, and that the Chyrurgeons have and injoy their calling and Craft, not only in general, as a Craft, but also in a clear Designation of the Subject of their Calling, viz. All Operations and Applications about the bodies, &c. And more particularly in the Cureing of the specialitys exprest in their Gifts, and grants, and that Exclusive of all others, in that they could humbly conceive there is no necessity to call for the Opinion of Physicians anent the Bounds or Limits of their Callings, seeing their Gifts, and Grants, does also speciallie, distinctly, and clearly design the same as Mens Wits, or words can expresse; And therefore since he questions not whither an Apothecary may not have also good Skill, to apply an Serecloth, or draw Blood as a Chyrurgion has, neither was the question whether an Apothecary, *qua* Apothecarie may apply Plaisters, as well as makethem, or cure Tumors Verrols, and such like, but that the only question is whether manual Operations and Applications upon the Bodys, &c. And particularly Phlebotomie Application of Serecloths Cureing, of the specialitys mentioned in their Gifts, is not only proper and due to them, to exercise by their special Gifts, and grants Exclusive of the Apothecaries and all others, the interpretation of their Rights, and grants needs not the Opinion of ane Physician, when the Terms and expressions are clear, for though all the Physicians of Scotland, should affirm that an Apothecarie, *qua talis* may apply an Serecloth, draw Blood, Cure the Verrols swellings or where, yet certainly the saids Lords in point of Right, must find that the Apothecaries of Edinburgh cannot do the same, because the Town of Edinburgh, who by their Erection from his Majestie, are intrusted to give particular Seals of Cause, Rights and Priviledges to Crafts and Callings Exclusive of all others, having given these Priviledges to Chyrurgeons in clear and expresse Terms, and they having injoyed the same now, these two hundred years Exclusive of all others, the same cannot be taken from them, without Violation of their Rights, even altho the Priviledge of its own nature, were Consonant to the nature of Pharmacie, or of a mixt Nature equallie applicable to Pharmacie or Chyrurgerie, and far less can these Priviledges be drawn in question by a Fraternity Erected, within these twenty four years, who have not the Priviledge to exclude any Burges that can bide a tryal, and then the Chyrurgeons Priviledges, are specially declared be the Town, before their erection and consented to be the Apothecaries, and bruiked and injoyed both before and since the erection, be the Chyrurgeons Exclusive of all others until this time. 2. The Petitioners humbly Represents to the saids Lords, that it is noture and known, that the Apothecaries have a greater dependance upon Physicians than Chyrurgeons have, for Chyrurgeons do and may by the Priviledge of their Art and Calling, operate without any dependance upon a Physician, and needs not, nor are they bound and tyed, to call for any Physician, but if they please. whereas an Apothecarie *qua talis*, neither ought nor can Administer Physick without the advice of an Physician, and the dispensatorie Art in the practise, thereof, absolutly depends upon the Physicians Recept, so that with all deference and respect to the Physician, the Chyrurgeons have just reason to suspect, that they will be more favourable in their opinion to the Apothecaries, and ready and willing to inlarge their priviledges, who have so absolute an dependance upon them; And it is notour and known, that the Physicians have frequently endeavoured to Erect themselves in a Colledge, and to extend their own priviledges, to the Impairing of both, and therein they have been still opposed by the Chyrurgeons and Chyrurgeon Appothecaries, and thereupon may be presumed to bear the Supplicants no good will, craving that the saids Lords would be pleased to consider the grounds of the Supplicants Declarator *in jure* as the samen is founded upon their Seall of Cause, Gifts, Grants and Acts, and their immemorial Possession, which the Supplicants humbly conceaves, are very clear and expresse, and which ought not to be altered upon the opinions of Physicians, but must be judged according to the Law of the Kingdom, and the nature and conception of their Gift, as the said Supplication more fully bears, which being Read in presence of the saids Lords, and they having heard and seen and considered the samen refused to give their Answer *in jure* until the saids Lords should Report; But they recommended to the fore-mentioned Lords, in their saids last Interloquitor, to call the three Physicians therein named with Doctor Burnet upon Monday next thereafter, and to have heard their opinion on the contraverted poynts; And to have made report thereof on tuesday following, in obedience to the which ordinance and Interloquitor above-written; The saids Lords nominated as said is, having called and taken the opinion of the saids Physicians, anent the contraverted Poynts, contained in the two several Declarators Above-mentioned; And thereafter upon Report made by them to the



saids haill Lords *in presentia* wherewith, & with the haill Dispute Above-written, they being well & reiply adviled; The saids Lords of Council & Session, found that the Chyrurgeons has only Right of Phlebotomie within the Town of *Edinburgh*, and upon the *Burgesies* thereof, except in the caises or necessity and charity: But Declared, that they would hear both Parties, if the said priviledge should extend to strangers living within the Town, or to *Burgesies* living in the Suburbs, but found that where there was no incision made upon dead Bodies, and that there is only wrapping of the Body required, the Apothecaries, makers of the Cere-cloath may wrap the Bodies, but where incision is made, the Application is proper to Chyrurgeons of the Cere-cloaths to the Body, and as to the other two poynts, *viz.* The probation of the contraventions by Oath, and the seperating of the Trades and Incorporations of Chyrurgerie and Pharmacy, the saids Lords declared they would thereafter hear both parties thereupon, and thereafter, there was an other Supplication given in to the saids Lords, in behalf of the said Chyrurgeons, Shewing, that although the Petitioners doe not contravert, but that if the matters concerning the Cere-cloaths, had not been decyded by the Town of *Edinburgh*, there might have been place for consulting with Physicians, as to Cere-cloaths; and to whom the Application thereof should belong, so that the Petitioners conceives the said Lords their Interloquitor as founded upon the nature of the Thing, and the Opinion of the Physicians was no way controverted, but it was humbly represented to the saids Lords, that this Debate was founded upon the Priviledges granted by the Town of *Edinburgh*, as having Right from his Majesty to grant the same, is yet intire, and that because neither did the Lords read and consider at the advising of the Cause, the Right founded upon by the Town of *Edinburgh*, nor was the said Interloquitor at all consistant with these Rights, for it could not be denyed, that his Majesty or the Town as having Right from him might have allowed no Apothecaries, but have granted all their Priviledges to the Chyrurgeons, and therefore *a fortiori* they might have restricted the Apothecaries at their erection to any particulars they pleased, and which is more, they ought to have restricted them, and they could not have taken from the Chyrurgeons the *jus questum* by their Seal of Cause and other Rights. 2. That Point, *viz.* whether these Priviledges of the Chyrurgeons should hold only *inter concives*, was never debated and if it had, the saids Petitioners could by most unanswerable Arguments evinced, that these Priviledges should extend to all the Priviledges of the City, as the Liberties of Baxters, Tailors, & all the other Trades does, & even the Jurisdiction of the Magistrats is extended to all within their liberty and not restricted *ad concives*, & the saids Lords jurisdiction is extended to all who are in *Scotland* & not restricted to *Scotsmen*, or where were ever the Petitioners heard to debate why the Opinion of Physicians should not be taken in that case, so that that Point should be yet allowed to be debated, the saids Lords never refusing to hear parties even after Interloquitor upon points that were not debated, and this was als great an Infringment upon their Liberties as that which was pleaded by the Apothecaries, and in which the saids Petitioners are als much concerned, Craving therefor that the saids Lords would be pleased to stop the extracting of the said Interloquitor till the Petitioners be heard upon these weighty points in which they and all the Trades in *Edinburgh*, yea and the Town of *Edinburgh* it self, and all the Burghs of *Scotland* are so much concerned, according to Justice as the said Supplication also more fully bears; Which being likewise read in presence of the saids Lords, and they having heard, seen and considered the same, notwithstanding of what was therein represented, Adhered to their said former Interloquitor, and refused to stop the extracting thereof, and thereafter the said Action of Declarator pursued by the said Apothecaries against the Chirurgeons being again called *in presentia*, and both Parties compearing by their respective Procurators above named. the Procurators for the said Apothecaries repeated their Summons, as to the point that the Callings, *viz.* Pharmacy and Chirurgery should be separat they being two distinct Trades and Employments of their own Natures, and that attending and following of either being sufficient to take up any man, and the confounding of both these Trades being a late abuse crept in since the year 1649 years, and was allowed by the Magistrats to conciliate favour with the Deacon of that Trade to favour them in the Election of the Magistracy, and therefore these two Trades and Employments ought to be separat and declared distinct, and the present Chirurgeons and their Successors, who do joyntly exercise both employments should make their Election and be restricted to one of these in time coming and discharged to take an Apprentice with respect to both employments, but only to be Booked as Apprentice in the Trade and employment of Pharmacy or Chirurgery as their Masters have elected and chosen the same. *Secundo*, There ought to be a Distinction betwixt their Trades as well as all other Trades, and the Trade of Chirurgery being erected with



with a Seal of Cause and distinct as any Trade in the Kingdom, ought not to be confounded, and that this ground of Declarator would be sustained in other Trades as uncontraverted; And therefore it ought to be sustained in this, it being a Confusion inconsistent with the policy and interest of the Kingdom. *Tertio*, The Declarator is founded upon King James Decreet Arbitral which is the foundation of the Right, whereby all Trades are ordained to be Erected and distinguished from others: To which it was answered, for the Chyrurgeons by their saids Procurators, that the foresaid Declarator could not be sustained as to the point of Separation of these two Employments of Apothecary and Chyrurgeons First, Because Chyrurgeons by ancient Seals of Cause are erected a Deaconrie as one of the Trades of *Edinburgh* with Liberty to receive Apprentice and to make them freemen. *Secundo*, As Burgeses and Gild-Brethren they were in a Capacity to exercise the Employment of an Apothecary before the Erection of Apothecaries in a Fraternity, which was by an Act of the Town-Council of *Edinburgh* in Anno 1657. and any man in *Edinburgh* that was a Freeman before the said Act, might have exercised Pharmacy without any Tryal, and may untill this Hour upon their byding a Tryal, and being found qualified, and Pharmacy is not a Trade or erected by a Seal of Cause as other Trades, but an Employment, which by the Constitution any Freeman that is found qualified may exercise. *Tertio*, The present Chyrurgeon Apothecaries are eminently fitted and capable for exercising both Employments, and whereof they and their Predecessors have been in Possession of Exercising of both past all Memory & thereby has prescribed a right of both. 4. That if the K. had power to erect this Trade with Priviledgs he has Delegated it to the Town, and if the Town have power, the Chyrurgeons have it by their Seal of Cause: and it is most consistent with the Interest and Condition of the Nation, that the Leiges should not be forced to employ both a Chyrurgeon & Apothecary when one may do both. *Quinto*, It were Destructive of the Town of *Edinburghs* Power, by their Charters of Erection, to have Right to Erect Deaconries, and to Appoint and Regulat the several Trades within the Burgh, and to conjoyn and separat them as they think fit. Likeas, the Chyrurgeon-Apothecaries their Priviledges are Ratified by King and Parliament; and His Majesty in his late Patent granted to the Physicians, doth acknowledge Chyrurgeon-Apothecaries, in whose Priviledges are Settled and Reserved by the said Patent, and Appoints them as joynt Visitors with the Physicians of the Drugs, to be sold or made use of, Whereinto it was Replied for the Apothecaries by their saids Procurators, That these Pretences founded upon by the Chyrurgeons, were most Frivolous, and the Apothecaries Declarator for the Separation of these two Employments, was most Just and Rational; and though the Chyrurgeons did make a Clamor and Noise, as if it were a Matter of State and Government, and did Alarm the Town of *Edinburgh* as if their Charters of Erection and Priviledges were Impugned, & Invaded; yet all such Stuff and Pretences is nothing but the common Methods of amusing of Clients, or the willful and ignorant Mistakes of Lawyers, that must now reduce all privat Debates to Politicks of Government, which is foolish and impertinent Nonsense. For *primo*, The Declarator concerns none but the privat Right and Interest of the Apothecaries and Chyrurgeons. *Secundo*, Albeit the Town of *Edinburgh* by their Charters of Erection from His Majesty, and His Royal Predecessors, hath power to Erect Trades and Deaconries; so likewise all our Royal Burghs of the Kingdom have the same. *Tertio*, There hath been nothing more ordinar than Declarators before the Lords of Session, of one Trade against another for their respective Liberties and Priviledges, which the Lords of Session have always Determined according to Law and Justice, without the least Invasion of the Charters of Erection granted to Royal Burrows; nay, have many times sustained Declarators, decerning the Magistrats to Erect and Incorporat Trades unto Deaconries, and to give them an Interest in the Government of the Burgh, notwithstanding the Government had been otherwise exercised past all Memory, and which the Lords of the Session and supream Judges of the Kingdom, may, and ought to do. *Quarto*, That as to the old Rights and Seal of Cause, the foresaid Declarator did not at all Impinge, for there was nothing therein as to Pharmacy, and as to what the Chyrurgeons have obtained from the Town of *Edinburgh* of late, it was *ultra vires*, and the Town could not joyn other Trades inconsistent or inconvenient to be joyned, there being not two Trades or Employments within the Town of *Edinburgh*, that are more *contra distinctione* one from another, than Chyrurgery and Pharmacy; and therefore, according to the Practice, Example and Policy of the Town of *Edinburgh*, and of all other Royal Burghs, as all other Trades which are distinct in their nature, are separat and not confounded, and cannot be exercised but by one; so there is the same and greater Reason for the Separation of Chyrurgery and Pharmacy. And



as to the King, his making mention of the Chyrurgeon Apothecaries in the late Signature, imports nothing, it being a simple Designation, and there being an Deacon, does not import that there can be no distinct Trades, for there are several Deacons in *Edinburgh* that have many distinct Trades under that Deaconrie, as the Wrights have Plasterers, Cowpers, Bowers, Club-makers, and many others, and the Chyrurgeons cannot pretend that they exercise the Trade of Pharmacy upon any distinct Right or Priviledges granted to them by their Seal of Cause, or any Deed of the Town prior to the Erection of the Fraternity of Apothecaries, but only as Freemen in the Town, and have the same Right that all Burgeses have of being Apothecaries, if found qualified, and as to that which is pretended upon the Chyrurgeon Apothecaries, there having been in Possession of exercising both these Employments past memory of Man, and that they have prescribed a Right of both, and that any Burges might have exercised the Art of Apothecary, and sold Droogs before the Erection of the Apothecaries in a Fraternity in *Anno 1657*. The pretence is most unwarrantable. For *Primo*, It is evident by the Report of the Physicians, it was but a late Abuse, and no such thing was known or practised but during the late Troubles, and *James Borthwick* was the first man that ever attempted or practised the same. 2. The Employment and Art of an Apothecary is most grossly taken and confounded with that of a Drogist, which is but a common Merchant, which any Burges or Gild brother may practise, by bringing home and selling Druggs as other Merchandice, whereas the Art of an Apothecary consists in the Knowledge and Composition of Druggs. 3. Although the Chyrurgeons could pretend to any possession of exercising both Employments, that any such Possession being contrary to, and inconsistent with the publick Laws of the Kingdom, & the publick good & Pollicy of the Nation, & the interest of his Majesties Subjects, can never prescribe any Right, but the Law looks upon each possession to be nothing but *corruptellæ & vetustæ errores*, and can never induce any prescription, especially seeing there is not so much as the pretence of any Title or Right produced before the pretended Act in *anno 1657*, erecting the Apothecaries in a Fraternity, and even that Act does no ways authorize or allow the same person to exercise both these Employments or confound the same but only declares that none should exercise the Employment nor Art of Apothecary, but such as should be thereafter found qualified and tryed by the persons mentioned in the said Act, and their successors amongst whom there were Chyrurgeon-Apothecaries at that time, but the said Act does no ways allow, authorize or confound these two Employments to be exercised by one and the same person, or hinder the Apothecaries to crave Redress against the same, which they now do by this just Declarator, and which as being a publick Interest, and *actio popularis quivis de populo competit*, it being against the Publick Interest and Policy and Prudence of this and all other Nations, that distinct Trades and Employments should be confounded even though the Act of the Town Council *anno 1643*. and *1655*, sustain the Apothecaries their Declarator as to the Point of Searcloaths, although they were expressly excluded from Application of Searcloaths by the saids Acts, so the Lords of Session ought to sustain this Declarator as to the Separation of these Employments, though there were an express Act of the Town Council of *Edinburgh* to the contrair, as there is now being contrair to the publick good and Interest, and to the Acts and Constitutions of the Burgh as to the case of all other Trades, and the Town of *Edinburgh* by their Chartours of Erection, having greater power in relation to other Mechanick Trades than they can or ought to pretend to Pharmacie or Chyrurgerie, which are meer liberal Arts and Employments, and to be regular and determined by the Lords of Session as the supreme Judges, with the due respect of the publick good and Interest of the Subjects, and Pollicy and Prudence of other Nations; To which it was Duplyed for the Chyrurgeons by their said Procurators, that the Town of *Edinburgh* in the year *1649*, with consent, and at the earnest desire of the Apothecaries, having determined the Chyrurgeons Right as to the Points controverted by any posterior Act *1657*, the Town could not by the erection of the Fraternity of Apothecaries, do any Deed in prejudice of the Chyrurgeons, tho the said Erection did impinge upon their Right, as it does not. and this Declarator raised at the Apothecaries instance, being in effect a Reduction not only of the Chyrurgeons Right, but of the Towns Priviledges, the same cannot be sustained by way of Declarator, but there must be Summonds of Reduction raised. 2. By the foresaid Erection of the Fraternity, no Burgeses of *Edinburgh* are excluded from being Pharmacians and Apothecaries, providing they can undergo a Tryal, and since any Burges may be, why not the Chyrurgeons who are alwise willing to be tryed, and cannot be supposed but to be best qualified in respect of the Contingency of the Employments. 3. By the said Erection of the Fraternity, the Office of Apothecary is not settled as

any



any distinct Trade, but continues as a part of the Gildrie, and the Entrant enters as Merchants, by applying first to the Council without any Distinction, except as to the Trial, for they pay no Composition, whereas the Chyrurgeon Apothecaries their Apprentices, before they receive them, are severely tryed in the Greek and Latine Tongues, and must serve five years to the Trade, and thereafter be three years in their Studie and Travelling before they can be tryed to be a Master. 4. In the foresaid Erection, the Apothecaries hath acknowledged the Chirurgion Apothecaries their Right, & have homologat & consented thereto by joyning with them in the *Petition*, whereupon the Act followed, and by which Act of Erection, it is expressly provided that the Apothecary Chirurgeons, at least some of their Number appointed, shall be Examinators to the entrant Apothecaries: As likewise, they Joyned together in obtaining an Ratification of Parliament in *anno* 1670, of the foresaid Act; and so the Chirurgeon Apothecaries having both Priviledge and prescription of their Possession by verue of the said Decreet Arbitral, and Homologat by the said Act of Erection, their Right and priviledge of vending and composing Drugs, cannot be taken from them without doing them injustice, and the pretence of the Conclusion and inconsistency of the Callings is ridiculous, the Trade of Apothecaries being no particular Calling; and the Chirurgeon by his Art and Calling being oblidge to understand, and *qua talis* must be necessitat to have Skill, both of Drugs, Herbs, and other Chymical Extracts for the Cure of those Diseases that are the proper object of the Calling; and the Chirurgeon Apothecaries not being now *in acquirendo jure*, but in the Possession of Rights and Priviledges Secured to them by Law, and Possess, past all Memory, the same can by no means be taken from them: And as to the haill Points now contravetted are Establisshd by Law; The King who has the sole Power has divolved it upon the Town, who have already Regulat and determinat their Points, and the indeavouring to alter their Rights now determined by Authority were to unbing the Government upon apprehensions or Reasons, that there might be a better Government, which would be a preparative to unbing all the Rights of King and People; and this beside the convniency and Interest of the People, that they be not compelled to Imploy two when one may serve; and the sustaining of this Declarator will be a preparative to all the Trades to quarrel the Constitutions of the Trade, and what the Town has done in this, is Ratified by King and Parliament, and that with the knowledge and concurrence of the Apothecaries, so that it is more as an ordinary Ratification: As likewise, the King by the Patent granted to the Physicians, has appointed the Chirurgeon Apothecaries to be joyned with the Physician in the trying of the Drug, which was not done in Stile or by chance, but was under Debate, and Quarreled before the Council; and the Retervation in the said Patent is only as to Physicians, and not as to Apothecaries, and by the Act of Council it is declared that the Chirurgeon Apothecaries, their Right shall be Ratified by the King, and to all the point of prescription is opposed and joyned, which is strongest in point of priviledge of any thing in the World; and the Immemorial possession is by consent publicly open and owned in all the Judicatoris of the Nation. *Quinto*, It was Triplyed for the Apothecaries before the said Procurators, that the Arguments founded upon the antiquity of the Chirurgeon is no Argument at all, for albeit of Old, the Chirurgeons were the only Doctors as well as Apothecaries; yer now seing we are Civilised, and are Subject to the Diseases of other Nations, so the Supplicants policy has allowed of these Remedies, which in other Nations are exercised by several persons, all which is cleared by the Report by the saids Lords their Order taken thereant of the Customs of other Nations, and as by particular Acts of Parliament; it is provided that the different Trades should be exercised by different persons; So by the Custom of *Edinburgh*, in all other Trades, it is observed, as cannot be denied, and their Trades as being of greater concern, ought rather to be distinguished; and it is a Mistake to say that they are by their Erection confounded, for the Apothecaries adhere to their Erection and Seal of Cause, for the Erection is for the Chirurgeon-Barbars: And as to what is alledged, that the King did give the Power to the Magistrats to dispose and determine the Trades within the Town. It is Answered, that the Power was not absolute and unlimited, but *secundum bonum & equum*, the King has given the same Power to all the Royal Burghs in *Scotland*; and yet the Lords of Session Decerned the Magistrats of *Burntisland*, and gave the Burgeses thereof, Deacons and Gildrie; though the Magistrats thereof did Oppose it; and there is nothing in the Prescription founded upon, for before the year 1649, this Chirurgeon Apothecary was never heard of, and their first Writ is in the 1657 year of GOD; and although their Arguments as to the Town of *Edinburgh*, their having already determined



might als well have been applyed to the two points of Blood letting, and application of Cerecloths, which notwithstanding the Lords have already determined in, & it were absurd to prevent That the Town of *Edinburgh* by vertue of the power given to them, have power to confound Trades and Employments without control, or to do any thing inconsistent with reason or the Interest of the people, and if they should do it, the Judge Ordinary may and should redress it, but this debate is not contrary to any thing in the Election, but most consistent & requisite for the simple *Chirurgeons*, in whole favours the Election is, for now neither the simple *Chirurgeons* nor simple *Apothecaries* can get a Prentice, seing the Prentice for the same Charge and Pains can acquit both Trades; And the conclusion of this Declarator is not only that the *Chirurgeon Apothecaries* now, are not only to Elect of one of the Employments, but likewise it was craved, that thereafter they might be discharged to take Prentices with relation to both Trades, or to pretend to Freedom in both, and it is no weight that the Expences of the Leidges is greater by employing of two persons, for it is very well kown that the *Chirurgeon* takes both for his Drugs and Pains exorbitantly, and all the exorbitant priviledges were given the *Chirurgeons* by the Magistrats, upon the account of their Interest in the Election of the Magistrat, and what is now craved by the *Apothecaries*, is not only consistent with the Laws and Customs of other Nations, but agreeable to the Policy of this Burgh in all other Trades, and is much more observed in *London*, and well governed Cities, and all the Possession that the *Chirurgeons* can pretend to before the year 1657, can operat nothing, seing it wants a Title which is necessary for Prescription: Thereafter there was an Supplication given in to the saids Lords, by the said *Apothecaries* and simple *Chirurgeons* of the said Burgh of *Edinburgh*; Shewing, that where in that Action and Declarator first intended at the instance of the *Apothecaries*, against the *Chirurgeon Apothecaries*, and now concurred in by the simple *Chirurgeons*, as to that point of separating the two Callings and Employments not to be exerced by, or confounded in one person, and which single point hath been formerly fully Debated. It was therefore humbly craved, the saids Lords would advise the point, and give their Answer therein in *jure*, especially seing the saids *Apothecaries*, Raisers and Pursuers of their own Declarator, did humbly conceive they were not *pro loco et tempore* concerned to insist any farther in the other undetermined points of their Declarator, while the saids Lords should be pleased to give their determination in the point of Separation, as the said Supplication more fully bears, which being read in presence of the saids Lords, and they having heard seen and considered the samen, Declared that before advising of the point as to the Separation of the Employments, they would hear the Parties upon the points reserved to be determined in their said last interlocutor; and therefore ordained both parties Procurators to be read at the next calling, and accordingly the said Action being again called, and both parties compearing by their respective Procurators above named, the Procurators for the saids *Apothecaries* repeated the conclusion of their said Declarator, as to the other two points not yet insisted in, *viz.* *Primo*, That it should not be lawful for *Chirurgeons* to trouble *Apothecaries*, and put them to their Oaths upon alledged Contraventions, and their exerceeding of any operations proper to *Chirurgeons*, but only according to the practice and observance of all other Trades, to deprehend them in the Act of Contravention, and which the *Apothecaries* craves no more against the *Chirurgeons* in case of their Contraventions, and exerceeding the Employment of *Apothecaries*. *Secundo*, That in so far as concerns the Members of the Colledge of Justice, and others his Majesties Subjects residing in, or repairing to *Edinburgh*, not being Burgeses, they may without any restriction, make use either of *Apothecaries* or *Chirurgeons*, and that the Acts of the Town Council of *Edinburgh* relating to Priviledges of either of the said Employments, can take no further place but *inter contraveners*. To which it was Answered for the *Chirurgeons* by their said Procurators, that the foresaid Declarator, as to these two points now insisted on cannot be sustained, because as to the first, that the proving the Contraventions by the contraveeners their Oaths, as a thing usual in cases more ordinary, and less importance, as in the cutting green Woods abstracting of Multers, and lately by an Act of Sederunt, it is appointed that the Magistrats shall be Burgeses before them, and referr the Contraventions of the selling of Vivers at greater Rates than they allowed to the Contraveeners Oaths. And here there is nothing to say as in other manual Trades. And as to the second point, it were against Reason to leave the strangers to the mercy of unskillful persons, while the Burgeses are priviledged for that they shal be served by skillful persons. *Secundo*, All the Town of *Edinburgh* has the Right, and are in the possession of providing



ing for strangers while they are in the Town, in all other things, and why not in this. *Tertio*, The Physicians their Patent does bear them to all persons within the Town as well strangers as others. And the Chyrurgeons Trade should be in reason as far extended, especially, seeing their Rights and immemorial Possessions does carry them to it. And by the late Act of Parliament Merchants are allowed to be put to their Oaths for in-bringing of Good Uncustomed or prohibite, which is in effect a Theft. Whereunto it was Replied for the Apothecaries, That this manner of Probation cannot be allowed; for it would ruine both the simple Apothecaries and the simple Chyrurgeons. And therefore until that point of the Separation of the Trades should be first determined, and then the Decisions as to the manner of probation would be equal to both. *Secundo*, The general interest of the people is, That it shal not be in the power of any Trade to discover or bring in question His Majesties Leidges, as being subject to Diseases; which it may be they would think shame of, yea so much as to have it suspected, tho by the event it should not be proven. *Tertio* It is contrair to the inviolable Observance in the case of all other Trades who cannot prove any pretended Contraventions, either against unfree Men or Members of other Trades, except per manus subjectionem; and that they were actually deprehended in the Act of Contravention. *Quarto*, If the contrair were sustained, that it might be lawful for the Trades to raise Process against Unfree-men, or one against another upon pretended Contraventions of their respective Priviledges. It behoved to kinde a Fyre amongst the Trades, and each of them to ruine and destroy others by calumnious Processes. *Quinto*, It behoved to open a Door to all Calumnie, Prevarication and Perjury. *Sexto*, There is a great Difference betwixt the case of general Laws or Poenal Statutes, the Contraventions whereof may be proven by Oath of Partie. And the priviledges granted to privat Trades and Incorporations: For the observance whereof, there is no furdur allowed by the practise of this and all other Nations, but actual Seizure and Deprehension, and even by the Ratification of Parliament in anno 1641 in Favours of the Chyrurgeons. It is evident that the Parliament allowed no more but actual Seizure and Deprehension. *Septimo*, If these were allowed, it should be in the power of Chyrurgeon-Apothecaries to ruine the simple Apothecaries and simple Chyrurgeons, by raising Process against them at their pleasure, and by calling them to attend such Processes, when they might be forced to go out of Town to attend their Patients, and so might Be holden as confest; and so there is far greater reason why Oaths should not be allowed against Apothecaries; then in the case of other Trades where it is not allowed. *Octavo*, A thousand cases might occur wherein Apothecaries could not be cleared to Depone, whether the Operations done by them were Chyrurgical, or might be proper to be done by Apothecaries. All which may fully evince, that it is a most unjust and unwarrantable pretence that Apothecaries should be put to give their Oaths, which is contrair to the practise and observance of all other Trades, and would be destructive to the Apothecaries, and is contrary and prejudicial to the interest and Reputation of His Majesties Subjects. And as to the point of Possession and Prescription, the first time that this manner of probation is mentioned was in anno 1655, which is here said to be proved *de jure*, which imports nothing but legal probation; As the case requires, *Secundo*. They had the same pretension to the Cere-clothes, which notwithstanding thereof is regulat by the Lords according to reason and Law, and no Act of the Town of Edinburgh can be otherways binding, but according as they consist with Justice and Law. And albeit they had that Act in anno 1655. Yet it was never pretended to be put in execution but twice, which appears to be meer collusion by Reading of the aids Decretes. And as to the Extension, as to strangers the Declarator is most just and rational. *First*, Because as to the Colledge of Justice and its Members, it is their undoubted and uncontraverted Priviledge that they may imploy and make use of any Unfree Man, and much more may imploy Apothecaries in that which is proper to Chyrurgeons, And that therefore Apothecaries or Unfree-Men, serving any of the Colledge of Justice, cannot be lyable for any Punishment for the same, that being an intallible Consequence founded upon the Priviledge of the Members of the Colledge of Justice. 2. The same also ought to be extended and communicat to all Strangers who are not Burgeses, because they cannot be subject as to the matter of their Health, to be limited and restrained by any Distruction of Trades established within the Town of Edinburgh, except it were *ratione delicti*, or *ratione rejecte*, or the like, which is subject to the Jurisdiction of the Magistrats, and it is not denied but if any Stranger would build or repair a House which lyes locally *intra territorium & districtum* of the Town, a Stranger behoved to make use of



Workmen, according to the Distinction of the several Trades, because the House is *res sita* within the Precincts of the Town of *Edinburgh*, and is the subject of the Operation, but what imaginable Colour of Law or Reason can be pretended that as to the point of a Strangers Health, he should be subject to the Regulation and Distinction of Trades within the Town of *Edinburgh*, why they may not intrust the same to whom they think fit, and to make use of the ordinary Apothecaries without the least restraint or hazard either to themselves or their Apothecaries, and that the distinction of Apothecaries and Chyrurgeons of the Town of *Edinburgh*, should only take place *inter concives*, these being the publick Constitutions of the Burgh, wherein either his Majesties Subjects are no ways concerned, To which it was Duplyed for the Chirurgeons, that the King having given the Town Right and power to regulat the Trades, & all Inhabitants within the Town, has consequently given them all things requisite for it, and the not allowing the probation by Oath but by Seafure, were to involve the People, the patent Trades and all in unevitable Ryots and Pleas, and as it is impossible to prove the Contraventions but by Oath, so that he not allowing his Probation, were to take away the Priviledge it self. 2. If it be any mans right he may vindicat his Right by all legal Means, and that is a legal Probation cannot be denyed, and although this has been the Rule and way of Probation ever until now, it cannot be pretended that ever any person was pursued but where they were guilty, and if they should have Expenses, which is the *pana temere litigantium*. 3. The King having given the Power of the Magistracy and Government not only of Burgeses, but of all Strangers coming to *Edinburgh*, so long as they are there they must be subject to the Rules and Government of the Town, and as Strangers cannot make use of other Artificers that are not Freemen, why ought they to make use of Chirurgeons, and the Chirurgeon Apothecaries being upwards of two hundred years in possession, by vertue of good and undoubted Rights the same cannot be summarly taken away, whereunto the Apothecaries Triplyed, That all the Towns Rules in regulating of the Trades within the Town, does extend only to the *Concives*, for if otherwise, the Priviledge granted to the Colledge of Justice would be rendered *Elnsory* and of non effect, and *concesso aliquo conceduntur omnia sine quibus affectum sortire non poterit*. 2. Albeit the Members of the Colledge of Justice, and other Strangers not being Burgeses, are subject and lyable to the Jurisdiction of the Magistrats of *Edinburgh*, upon any ground of Law that founds the Comperency of their Jurisdiction, and if they should commit Riots, Slaughters or other Crimes, or were heretors of the Tenements or the like, yet the power and Jurisdiction of the Magistrats of the Town of *Edinburgh*, cannot respect any restraint or Revolution of the cure of their health, the Acts of the Town Council being only politick Constructions of the Burgh which can be valid and binding against none but *inter concives*, and it is vain and frivolous to pretend, that they have a Power to make use of and call Apothecaries, and yet if they come they are lyable to be punished, it being absolutely inconsistent with the other, and would render upon the matter the same Limitation and distinction of Trades, as effectual against the Members of the Colledge of Justice and Strangers, as against other Burgeses and Citizens: And therefore the Apothecaries repeat and open that Declarator, which as to the whole Conclusions thereof, is most just and consonant to the Laws and Customs of other Nations, and to the constant observance and Custom of the Town of *Edinburgh* in the case of all other Trades, and wherein not only the Apothecaries concur, but also six of the Chirurgeons, who have right to all the Liberties and Priviledges of the Seal of Cause erecting the Chyrurgeons into an *Deaconrie* and Incorporation; Which Summonds of Declarator pursued by the saids Apothecaries against the saids Chirurgeon Apothecaries of *Edinburgh*, and haill Points therein contained, with the several Disputes above-written following thereupon, being at length heard, seen and considered by the saids Lords, and they therewith being well and ripely advised, the saids Lords of Council and Session, *Found and Declared*, that the Employments of Chirurgery and Pharmacy being two distinct Employments, and both requiring a great deal of care and knowledge, shall hereafter (within the City of *Edinburgh* and Liberties thereof) be exercised by distinct persons, and that one and the same person shall not exercise, or be employed in both Employments, and that albeit Chirurgeons may buy and sell Simples as any Druggist or Merchant may do, and compone such Druggs as are necessar for Chyrurgical and end external Application, yet that they cannot compone any Medicament to be taken internally by the Mouth *Reservand* alwise from this Declarator to the Chyrurgeon Apothecaries that are presently actual Masters in both Employments, and does actually keep Apothecaries Shops within the Town of *Edinburgh* or Liberties thereof, as to which Bounds this Declarator extends and no furdur. Thereafter there was an Supplication given in to the saids Lords at the instance of the said Chyrurgeon Apothecaries, with the concurrence of all the other

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fourteen Deacons, *shewing*, That where King *James* the sixth of Blessed Memory, having debarred all Tradesmen from the Magistracy in which the Petitioners had then an equal share He did in recompense thereof allow the Petitioners the Benefit of Gildry, by vertue where of it was free for the saids Petitioners or any of them who were comprehended in any manner of way under the fourteen Deaconries, to be free not only to keep Shops as Gild-Brethren, but likeways to exerce any of these Trades, which were pendicles of the Gildrie; And it cannot be denied but that the Apothecary Trade was not comprehended under any of the fourteen Deaconries, but was simply a pendicle of the Gildrie, and consequently any of the fourteen Deaconries were free to be of it, to which the Petitioners desired a Specifick and formal Answer, it never having been answered yet in these Proceses, and all that the Petitioners heard insinuated as an answer, being that the Apothecaries Trade is not a meer selling but a Compounding of Druggs, which Composition is no part of the Gildrie: To which the Petitioners reply, is that this is a mistake in the Fundamental Constitution of this Burgh, whereby even the compounding of Drugs is no part of the fourteen Deaconries, and consequently as before the year 1657, any man whatsoever might have been without tryal set up to compound Druggs if he was Burges, so after the year 1657 all the priviledges given to the Apothecaries was only that none should exerce their Trade till they were found able by the Chyrurgeon Apothecaries and Apothecaries, and therefore if that the Chyrurgeon Apothecaries can show that they were sufficiently able to understand their Trade why may not they be admitted als well as any other Burgeses, since no Burges can be debarred that being his Birthright by the set, and to press that they may be free of all the Supplicants Trade, as they are of theirs, was expressly contrair to the fundamental Constitutions of this Burgh, who by no means can be free in any of the fourteen Deaconries, but these who have either served in an Apprentiship to any of them, or have married one of their Daughters when they have gotten a sufficient Answer to that point never as yet answered then it will be time to Debate whether the Apprentice which the Petitioners have received, and may receive during our Lifetimes ought to be free of both Trades, their being *in question* to the Petitioners & them thereto prior to this Decision, and all statutes such as this of the saids Lords seems to be having only *tractum futuri temporis* though made by a Parliament, especially when they are correctory of Priviledges *bona fide* acquired prior thereto, and the Petitioners being admitted to both Fraternities in both which the Petitioners have given their Oaths *de fide*, and by their Constitution there can be no meeting except where the two Visitors are present, and one of the Chyrurgeon Apothecaries must be Visitor; So that either they must have a new Erection, which the Petitioners humbly conceive, none can give them, but the Magistrats of *Edinburgh*, or else the Petitioners must of necessity be present with them, and the Petitioners humbly craved, that the Apothecaries Advocats would show us which way and by what Arguments any Society could meet in *Edinburgh* without an Erection from the King or the Town, or how men that have a Priviledge and are in Possession of it can be deprived and forfeited without a Fault; As also how the Petitioners Apprentices who have payed in their Prentice-fees in Contemplation of both Trades before the saids Lords their Act can Forfeit their Fault, upon which and several other Points never yet debated before the Lords; The Petitioners desires to be heard in the saids Lords their own Presence which was never refused to any Subject whose Cause was once heard *in presentia*, as the said Supplication and desire thereof more fully bears; To which it was answered for the Apothecaries and Chyrurgeon Barbers, *viz.* That neither the tumultary Caballs of the Trades, nor the tumultuary Petitions which are given in name of the hail Trades, tho' thirteen of them are not in the least concerned, ought to have no other influence upon the Losds, but to deserve a Censure and Reprimand, that after they have taken so much pains and trouble, and has determined the point upon unanswerable Grounds of Law and Reason with all possible Tenderness and Allowance to the present Chyrurgeon Apothecaries, They should in an indiscreet Way and Manner Caball and run up and down and amuse ignorant people with Stories of Government and Priviledges, which is not in the least concerned. The case being a single, Debate of privat Rights, and a Controversy betwixt the Apothecaries and Chyrurgeons, which is no other but directly the same, with the Debates and Controversies which have and may arise betwixt other Trades. And as to the Prentices in the Petition, That the Apothecaries are none of the Pendicles of the fourteen Deaconries; and that any Gild-Brother might have exercised the Employment of an Apothecary, before the Erection in a Fraternity, and may do the same, since their undergoing the Tryal, and being Qualified. *It was answered*, the Interlocutor is opposed, and Grounds whereupon it proceeded: and the Petitioners do



strangely forget themselves, if they disremember that the said Pretence was both Founded upon in the Declarator, and fully answered and satisfied. And again to refresh their memory, the Answer then made was, that albeit the Decreet Arbitral pronounced by His Majesties Grandfather King *James* the Sixth, had settled the fourteen Deaconries in order to the Government of the Burgh, and that the Apothecaries were none of these Deaconries; yet without the least Impinging upon the Decreet Arbitral, it was lawful and competent to the Apothecaries to crave by their Declarator, that Pharmacy and Chyrurgery might be declared distinct Employments, and separately exercised as such; just as the several Pendicles of one and the same Deaconry, might pursue a Declarator of this nature against the other. As for Instance, if the Bakers of Pyes should transgress and bake Loaves, which is a distinct Employment though belonging to the same Deaconry, or if a Locksmith should pursue a Blacksmith if he should use both Trades, though under the same Deaconry of Hammermen, and forty others which might be instanced, by which the saids Lords may plainly perceive, that the Decreet Arbitral, or the Settlement of the fourteen Deaconries is not in the least concerned; and besides, it is certain and undeniable, that the Chyrurgeon-Apothecaries are none of the fourteen Deaconries, or so much as mentioned in the Sett, but only the simple Chyrurgeons, the most part of whom do concur with the simple Apothecaries in the foresaid Declarator. And as to that Pretence, that the Case was a Matter of Government, and that His Majesty has granted a Signature in Favours of the Chyrurgeon Apothecaries, and that the King's Advocat desires to be Heard in favours of the Chyrurgeon-Apothecaries. It was answered, the Insinuations are most frivolous; And it is strange how any man can please himself, or think it possible to delude others with such Conceits, and that every little petty Debate betwixt two privat Trades, must instantly be a great Question of Government. And it were certainly very unsuitable to that Deference and Duty the Lords of Session owes to His Sacred Majesty, whose Royal Consideration is taken up with Matters of a Higher Nature, to trouble His Majesty with such petty Concerns, which are only proper to be Cognosced and Determined by His Majesties Judicatures, which are Established for that very end. And as to the Signature in favours of the Chyrurgeon Apothecaries; it was strange how it comes to be mentioned, having already received its Fate before the Lords of Privy Council: and it's great Moderation in the Lords of Session, who were so immediatly touched by the Extravagancies of the said Signature, not to have taken notice of it before this time. And as to these Pretences, that the Interlocutor can be of no greater Force than a Law, which can only be extended *ad causas futuras*, and cannot prejudge Apprentices who had *jus quassum* by their Indentures to both Employments. It was Answered, the Comparison is an evident Mistake; for the Lords Interlocutor is a Sentence *in Jure*, and a Decision in Point of Right, that these two Employments ought to be separate, and not confounded in the same person; so that it was impossible there would be *Jus* for the Confusion, that being directly inconsistent with the Interlocutor, it being certain that the Lords of Session cannot take away Parties Rights, neither *pro praterito*, nor *futuro*: and therefore the Interlocutor by a necessity of Consequence, should have effect against the present Masters for the Separation in time coming, though the Lords has been pleased so far to indulge them as to allow them to Operate in both during their Lifetimes: but there is not the same Reason to extend the same Favour to Apprentices, which would indeed evacuate the Interlocutor, and the Lords may as well Retrait what they have done, as satisfy the unreasonable Clamour of the Chyrurgeon-Apothecaries, and neither they nor their Apprentices, can pretend to a *Jus quassum*, unless they suppose the Interlocutor *in Jure* is unjust, which, whatever they think, it were a little too petulant to insinuate or express. And Laws are of a different nature from Interlocutors *in Jure*; because Laws being *inductivi Juris novi*, are only to be extended *ad negotia futura*; but Interlocutors are Declaratory of Laws already made, and of distinct Rights formerly of their own nature established, and so does take effect, and regulat all Cases which are the Subject of Debates. And the Apothecaries humbly desire the Lords to take to their Consideration a former Petition given in by them, and at last to put a Period to these Debates, and to secure and render their Interlocutor ineffectual in time coming, and that it may not be in the power of the Chyrurgeon Apothecaries, to elude the same. And thereafter there was another Supplication given in to the saids Lords, by the saids Apothecaries & Chyrurgeon-Barbars of *Edinburgh*, Shewing, that where the saids Lords upon Advising of the Declarator Raised by the Petitioners against the Chyrurgeon-Apothecaries, has most justly Found and Declared, that these should be separat Employments in time coming. It followed necessary, that the present Chyrurgeon-Apothecaries who were

allowed



allowed to exercise both Employments during their Lifetime should not upon the Pretence of the said personal Indulgence, be allowed to fall upon Methods so evacuat the said Interlocutor, and perpetuat the Confusion of these Employments. This therefore the saids Lords would expressly declare, That it should not be lawful to the Chyrurgeon-Apothecaries to receive Apprentices, but as to one of these Employments, and that the Prentices be so looked; And that the present Chyrurgeon-Apothecaries may be put to Declare, which of these Employments they will take themselves to in time coming, as to that Point of Booking of Prentices; otherways they will receive Prentices one year in Pharmacy, and another year in Chyrurgery, which is most absurd. As likewise, That the present Chyrurgeon-Apothecaries may be Restricted to sit at one of the Tables, either of the Deaconry of Chyrurgeons, or of the Fraternity of Apothecaries, there being no more intended by the Interlocutor, than that the present Masters may Operat in both Employments during their Lifetime. And whereas the Petitioners were Informed, that the Chyrurgeon-Apothecaries of design to evacuat the Interlocutor, were to crave, that their Apprentices who are already past their Prentiship, and Discharged of their Indentures, may be allowed to exercise both Employments during their Lifetime. The said Pretence is directly inconsistent with the Interlocutor, and tends to evacuat the same, and continue the Confusion of these Employments, and the Indulgence granted to the present Masters is *ex gratia*, and contrare to the common Grounds of Law, whereupon the saids Lords has sustained the Declarator for Separation in time coming. And the special Considerations that the saids Lords have gone upon, as to the present Masters, was, that they were in possession of both Employments, and had long Experience, and had Shops fitted with the Materials of Pharmacy, and Chyrurgery, which special Reasons do not in the least Militat for Apprentices who are not set up, many of whom will not be able to be Freemen in the saids Employments these ten or twelve years, by the Constitutions of the Burgh, and the Acts of the respective Employments. Thereafter it was humbly craved, That the saids Lords would so Enlarge and Declare in the foresaid Interlocutor, That it may not be in the power of the present Chyrurgeon-Apothecaries, by their Methods of taking and Breeding of the Prentices in both Employments, to evacuat the same, and that they may be Restricted to Meet and Conven only at that Table, at which they shall Condescend to Book their Prentices; that so these Points of the Separation being once fully cleared, the Lords may at their convenience, proceed to Advise the other Points that are not yet Determined, as the said last Supplication also more fully contains. Which first Supplication above-written, with the Answer made thereto by the said Apothecaries, and last Bill given in by them in manner above specified, being all read in presence of the saids Lords, and they having Heard, Seen and Considered the same: and being therewith well and ripely Advised, the saids Lords Decerned the saids Chyrurgeon-Apothecaries Masters, who by the foresaid Interlocutor were allowed the exercise of both Employments during their Lifetime and the three young Men *viz.* James Murhead, John Lauder, and Thomas Edgar, who by the particular Interlocutors, were declared to be in that Condition, albeit they be not as yet actually entered Masters in both Employments. To make their Election to Meet and sit at any one of the Tables of the said two Employments, and to declare their Election betwixt and Tuesday thereafter: and if they did not Declare betwixt and the said day, the saids Lords Decerned them to sit only at the Chyrurgeons Table, as the eldest and first erected Trade: and the saids Lords have found, that no Master can hereafter take Prentices to make them Freemen in *Edinburgh* in any of the saids two Employments, except that at which they sit at the Table, and that all the Prentices already entered, are to be free only in that Imployment and Trade at which their Masters sits at the Table. In Obedience to the which Interlocutor, there was an Condescendance given in by John Fossie Chyrurgeon-Apothecary, written and subscribed by him, and declaring his Election to be to meet and sit with the Apothecaries, as the said Declaration and Condescendance, dated the day of March instant, extant in Proces more fully bears: And thereafter there was another Supplication given in to the saids Lords, by the Chyrurgeon-Barbers of *Edinburgh*. shewing, That where in the Erection of their Deaconry, and in the Confirmation thereof by King James the fourth, as also by the Decreet-Arbitral of King James the sixth, there is not so much as any word of concerning or signifying such a thing as a Chyrurgeon-Apothecary, which never came to be in practice till the time of the late unhappy Troubles & Confusions, & was never so much as named under that Designation in any publick Writ, till the time of the later and more unhappy Usurpation *anno* 1657, which yet does not any ways Erect or Authorize them as such, and that the foresaid ancient Deaconry flourished in a good condition, with an oppulent Box, till the Chyrurgeon-Apothecary crept in amongst



us, who deriving an sick ends and designs, prejudicial to the ancient Deaconry, regarding the Apothecary and his Pharmacy more then the Chyrurgeon, and true establishment of the Deaconry : Pursuand to which, they at all Tryals, and all Admissions of Intrants, constantly more favour their own Apprentices then the Petitioners, wherethrow they have not only become more numerous in the Calling then the Supplicants were, and so by Votes overpowered the Petitioners in all their Proposals ; but that also, since their coming in amongst the Petitioners, much Money hath been expended for Pleas and Suits of Law, to not only the exhausting of the Box, but burdening of the Calling with considerable Debts. And now that the saids Lords have most justly found and declared, that these two Employments of Pharmacy and Chyrurgery are in their natures distinct, and ought in their Practice to be so far separat, as not to be exercised by one single person ; and tho' the saids Lords, have *ex gratia*, upon several Specialities, indulged the present Masters to operat in both during their Lifetime, yet the Petitioners are informed, that the saids Lords are importunate to enlarge the same favour to some Apprentices, as particularly to *John Lawder* and *James Muirhead*, against whose Bills the Petitioners ( adhereing always to their general Answers and Bill jointly of before given in by them with the simple Apothecaries, ) do humbly represent, that these Prentices are not stated under the Specialities which prevailed with the saids Lords to grant the personal Indulgence in favours of the present Masters ; and as the Concessions would altogether evacuat the saids Lords their just Interloquitor, and perpetuat the Confusion for ever, so would they also open a door of great trouble to the saids Lords, nor no Apprentice ( whether he hath not served his time, or is yet serving, ) but would insinuat some pretences for enjoying a share in that personal Indulgence ; and it is a mistake in the fundamental Constitution of this Burgh, to imagine that any one man ought in *jure* take an Apprentice for two distinct Trades and Employments, for can a Merchant take an Apprentice for the Gildry and a Trade, or ought a Tradesman in *jure* take an Apprentice by formal Indentures, and book him equally to his own particular Trade and the Gildry of the City ; yea, can a Tradesman take a Prentice, and formally book him to any two distinct Employments, or Pendicles of one and the same Deaconry ; as for instance, can a Py-Baxter take, and formally book an Apprentice to the baking of Pyes and the baking of Loaves, although the baking of a Loaf is the ordinary Essay put to the Py-Baxter at his Tryals. So that as the Masters impinged upon the Constitutions and Order of the Burgh, in confounding of the Gildry with the Crafts, by taking and booking one Prentice to both, so the Apprentices cannot found any thing upon this *Corruptela*, to prejudge the Constitution of the Burgh, whatever recourse they may have against their Masters for imposing upon them and their Friends by such Indentures. *Secundo*, It is more particularly Answered to *John Lawder's* Bill, that the Action of Declarator was depending long before he contelles himselfe to have come home, and as *de facto*, he never offered him to his tryals at the Petitioners Table, so it is but frivolous to alleadge he had done it, but was delayed upon the depending Declarator, for what ever differences were betwixt the simple Apothecars, and the Chyrurgeon-Apothecaries for the tryal of intrants, at their table during the dependance, yet no such thing was upon that account, betwixt the Petitioners and Chyrurgeon-Apothecaries at the Petitioners Table, and as for *James Muirhead's* Petition, he is already an Apothecary, and so the Lords Interloquitor is opened. 2. *Esso*, he were not yet, he cannot by the Acts of the Deacons, be so much as yet for a long time received to his very Tryals, the Petitioners Acts providing that none but qualified Person should be admitted, discharged the receiving of so much as a Bill, from an intrant till eight year after he is Booked an Apprentice in the Books of their Calling, and which *James Muirhead* cannot alleadge. It was therefore humbly besought, that the saids Lords would take the Premises to their consideration, with the Petitioners Answers and former Bill abovementioned, and secure the Lords Interloquitor from being rendered unesequal, and that the Lords would declare that the Box and Calling of the Chyrurgeons, could not be burdened with the Debt lately contracted, for the maintaining of this Plea against the Separation, but that the same should be payed by the Chyrurgeons-Apothecaries amongst themselves, and not upon the Box, which is the Poors Money and the Stock of the Incorporation, seeing the Petitioners concurred for the Separation, and one of the Petitioners was so Illegally Incorporated by the present Deacons ( who is a Chyrurgeon Apothecary himself ) for delivering his Opinion against borrowing of Money for this Plea, that the saids Lords did liberate him without either Caution or consignation, as the said Petition likewise more fully bears, which being likewise Read in presence of the said Lords, they ordained the Chyrurgeon Apothecaries to have answered the sament again the next day thereafter, and thereafter there



was ane Supplication given in to the said Lords, by *James Turnbull* Chyrurgeon in *Edinburgh*, shewing that whereas he had payed an considerable Prentise Fee, after his Apprentiship, went Abroad for several years. to accomplish himself in the Arts of Chyrurgerie and Pharmacie, and after his return upon Application to the Chyrurgeons of *Edinburgh*, they upon Tryal have found the Petitioner qualified, and admitted him a Free-man Master in their Societie; and he having provided himself of all Drugs, Medicamenta and Instruments necessary, not only fit for Exercing of Chyrurgery, but also of Pharmacie, the Petitioner having set up and kept an open Shop, and done all Diligence for procureing of Freedom in Pharmacy, and did make his Application to the Town Council of *Edinburgh*, for their Recommendation to the Fraternity of Chyrurgeon Apothecars, and Apothecaries, the Petitioner was always delayed, because of several Intrants that had procured their Recommendation before him, but now having procured his Recommendation from the Council to the Brother-hood, the Petitioner has gotten in his Bill, which Bill with his Recommendation is accepted of by them, and still lying before them, but by reason their meetings has not been so frequent as formerly, because of their pleas at Law, the Petitioners Tryals has been delayed, and seing he is a present Master in Chyrurgie, and hes done all Diligence in order to the Tryal of his qualification in Pharmacie and to that end hes Set up a Shop ( before the Lords Interloquitor ) Humbly beseeching therefore, that the saids Lords would allow the said Brother-hood of Chyrurgeon-Apothecaries, and Apothecaries to admit and receive the Petitioner a Freeman Chyrurgeon-Apothecary, that he may have the benefit of the Lords Interloquitor, especially considering the Lords have granted the like Priviledge to other two of late ( the one not being yet admitted Chyrurgeon, the other neither as yet admitted Chyrurgeon nor Apothecarie, so the Petitioners case in all circumstances being considered, is more favourable then these. Whereunto it was answered for the said Apothecaries, it was absolutely false that he payed any Prentise Fee, having only served his Father, who was absolutely ignorant of Pharmacie, having neither been Breed nor Instructed therein, although he kept the Fashion of an Apothecaries Shop, which afterward he quait, because the Physicians would not Imploy a person of so little Skill. Secondly, All his Travel abroad was only a Ship-board, where he could have no occasion of exercising, much less of Improving himself in Pharmacy, which appeared very well when he offered himself to Tryal, for there he was found most Ignorant and unqualified and rejected as such, since which time he never had the confidence to offer himself to a new Tryal, in respect whereof, it was hoped the saids Lords would reject his Petition; and that the saids Lords would be pleased to declare that the Indulgence that they had allowed to the three young Men, *Lauder, Muirhead, and Edgar*, was always upon condition that they be found Quaited at their respective Tryals, which last Supplication above written, being read in presence of the saids Lords, together with the Answers made thereto by the saids Apothecarie, and they having heard, seen and considered the same, They refused to grant the Desire thereof; And thereafter there was another Supplication given in to the saids Lords by the saids Chirurgeon Apothecaries of *Edinburgh*, shewing that where they being informed that the saids Lords has decerned the Petitioners to make their Election presently, at which of the Tables of Chirurgery or Pharmacy, we are to meet and sit, whereat the Petitioners are greatly surprisid, and in a manner in a consternation, seing the said point was never advised with our Lawyers, nor Informations given by the Petitioners to the saids Lords thereanent, nor the same craved by the Pursuers Declarator, and in regard many of the Petitioners number are out of Town, and the time allowed very short; and to the effect the Petitioners may deliberat *sedato animo* in so weighty a Point, and not to do the same rashly and in confusion; Humbly beseeching therefore, the saids Lords would grant the Petitioners such a competent time as they may advise and be heard before the saids Lords, hoping that some of the Petitioners, their Services in both Employments to His Majesty in his greatest difficulties ( when scarce one of the Pursuers were so much as heard of ) and the Petitioners former care and successful pains in Curing many of His Majesties Leidges by exercising these Employments, did prevail with the saids Lords to grant the Petitioners this so reasonable and humble desire; Whereinto it was Answered, that whereas it is pretended that the Point of separating the Tables, and oblidging them to make their Election of what Table they will sit at, and to book their Apprentices, accordingly was never advised with their Lawyers, nor Informations given in by them to the Lords thereanent, nor the same craved by the simple Apothecaries Declarator. It was Answered, First, That it was their own fault if they did neither advise with their Lawyers, nor give Informations to the Lords: The



Points having been fully Debated several times, as is well known to the Lords themselves. But Secondly, The Apothecaries and Chirurgion-Barbars do oppone the several Bills and Answers given in on both sides, and extant in Process, since the Lords did pronounce their first Interlocutor for separating the Callings; but especially Sir George Lockhart Answers to the second Bill, since given in for them by the Lord Advocat which is lying in the Clerks hands, by which it clearly appears that the Sparation of the Tables was necessarily consequential to the Sparation of the Callings, and without which the first Interlocutor was not perfect; So that it was calumnious for the Chirurgion Apothecaries to pretend a Surprisal, it being about a Month as will appear by the Dates of the saids Bills and Answers since they were well acquainted with the Point, in respect whereof, and that the Chirurgion Apothecaries design was only to drive off this Session, that thereby they may render the Lords Sentence *elusory* and of none effect, by hindring the samen to be Extracted, and so to continue and perpetuat the Confusion; And it was therefore hoped that the saids Lords would have no regard to the Petition, nor any other of that nature, but forthwith Order the Extracting of the Apothecaries Decreet, especially seeing the Services which some of these Chirurgion Apothecaries pretend to have done to His Majesty in his greatest difficulty were neither so great, nor so long continued by very far, as they rendered to his Enemies of both Nations, who brought His Majesties Royal Father and himself unto those difficulties, which last Supplication and Answers above written made thereto, being likewise in read presence of the saids Lords, and they having also heard, seen and considered the same, refused to stop the Extracting of the foresaid Declarator, but declared that if the Petitioners had any thing in Law to represent upon the morrow thereafter, against the oblidging them to sit at one Table, and to have the priviledges of both they would hear them: and thereafter there was an other Supplication given in to the saids Lords, by the said *Chirurgion Apothecaries*, shewing, That where they immediatly after sight of the saids Lords their last deliverance upon the foresaid Bill given by them, past that same Afternoon, which came to the Supplicants hands late at Night: the Petitioners did their utmost endeavour to procure meeting of their Advocats, which after all imaginable diligence they could not obtain, in respect they were surcharged with a crude of Affairs the penult day of the Session, and seeing there were a great many matters of Fact coming daily to the Petitioners knowledge, whereby the inconsistency of the separation of the two Tables of Chirurgery and Pharmacy during the Petitioners lifetimes, even to former Interlocutors will unquestionably be made appear, and which requires only the deliberat advice of their Lawyers to put in form. It was therefore humbly craved, the saids Lords would ordain the Petitioners Advocats to Consult them therein, to the effect the saids Lords might be fully cleared in that point, being confident to assert, that neither the Pursuers nor Physicians their assistants has or shall be, have more loyaltie towards his Majesty (some of the Petitioners being at *Worcester Fight* attending upon his Person, and sequestrat for their loyaltie by the Usurpers) nor has been, nor shall be more obsequious and ready to serve the saids Lords and Leidges with their skill and pains with the Petitioners, who has given proof to the whole Nation, how useful and necessar these Employments has been in their persons, as the said last Supplication also extant in Proces more fully bears, and which being likewise read in presence of the saids Lords, and they having heard, seen, and considered the samen, found the desire thereof improper for them to meddle in, and refused to give any stop upon such pretences: and ordained the Decreet to be given out, *Extractum de libris actorum per me sic Subscribitur George Mackenzie Clerk Register.*

*Act in Favours of the Apothecaries of Edinburgh.*

**A**T *Edinburgh*, the twenty sixth day of *March* one thousand six hundred & Eighty four years anent the Supplication given in, and presented to the Lords of Council an Session, by the *Apothecaries of Edinburgh*: shewing, that where there being a Decreet of Declarator pronounced by the Lords, separating the two Callings of *Chirurgerie* and *Pharmacy*, and ordaining them to sit at different Tables, and allowing the present *Chirurgion Apothecaries* to make their Election at which Table they will sit, under the certification, that if they did not condescend & declare betwixt and a certain day conform to the said Decreet, to be reputed as *Chirurgeons* and to sit at their Table allanarly, and the Petitioners in pursuance of the said Decreet of Declarator, having presented a Petition to the Town Council of *Edinburgh*, humbly desiring the Magistrates and Council to nominat and appoint to them



them a Visiter for convening their Fraternity, and for trying their intrants, and that they would declare the Act of the Town Council of the Twenty fifth of *March* one Thousand six hundred & fifty seven, & all the priviledges therein contained did now properly belong to the Fraternity of *Apothecaries*, and not to the *Apothecarie Chirurgeons*, as being declared by the said Decreet to be separat and distinct Callings; the desire of which Petition being so just, and the import and effect of the Lords Decreet of Declarator was at the first reading past *nemine contradicente*: but thereafter by the importunity and influence of the Deacon of the *Chirurgeons* was thereafter stopped; and albeit the Petitioners has by renewed applications, earnestly desired the Magistrats and Council to grant the desire to the said Petition, yet they are not able to prevail, such is the power and influence of the *Chirurgeons*, The present Deacon who is a counsellor, being a Chirurgeon Apothecary, and in regard it is just and necessar for vindication of the Lords own authority, to see their own just Decreet and Sentences rendered effectual, and that the separation of the two Callings of *Chirurgerie* and *Pharmacie* was found by the Lords to be consonant to Law, and founded upon consideration of publick utility, and the good of his Majesties Subjects, and that the said Decreet of Declarator for separating these two Callings of Pharmacy and Chirurgery would be rendred Elusory and of no effect, if the Petitioners shall not have a Visiter nominat who may convene their Fraternity of Pharmacy, and that it is the just import and effect of the said Decreet of declarator, that the whole priviledges and immunities contained in the foresaid Act, declaring the *Apothecaries* in a Fraternity, should be declared Solely to appertain and belong to the *Apothecaries*, as separate and distinct from *Apothecaries Chirurgeons*; and therefore humbly craving, that the Lords would in vindication of their own authority, as well as the Petitioners Right, ordain the present Magistrats and Council to nominat and appoint a Visitor, for convening the Fraternity of Apothecaries upon all occasions, and likeways to pass an Act under the Town Council of *Edinburghs* Seal, declaring the foresaid Act dated the twenty fifth of *March* one Thousand six hundred and fifty seven, and the priviledges therein contained only to belong to the Fraternity of Apothecaries, as being now declared by the Lords Decreet, to be a separate Calling from Chirurgeon Apothecaries, and that the Lords would be pleased to ordain the Magistrats and Council to do the samen, under such certifications as the Lords should think just, whilk Supplication and desire thereof being considered by the saids Lords, they ordained the Procurators for the Chirurgeon Apothecaries to see and answer the same the next day, which being accordingly given up to the saids Procurators to see, they returned the samen with the answers following, *viz.* *Primo* That it is strange with what confidence the Apothecaries can trouble the Lords with such a groundless and ridiculous Bill, seeing they are not obliged Summarie to answer upon a Bill, no man being obliged to answer upon a Bill where there is no depending Proces, except he be a Member of the Colledge of Justice, and that in things relating properly to his Office and Employment; far less can any Incorporation or Community be obliged to answer upon a Bill without there were Signet Letters raised and the persons formally cited, and the Proces came in to be called by the course of the Roll conform the Act of Regulation, for if it were allowed there should be no use of Signet Letters, and would overthrow the foundation of Law and form. *Secundo* This is already depending before the Town Council of *Edinburgh*, as appears by the Apothecaries own Bill, they haveing given in a Petition to the Town Council to the same purpose, to whom it is proper to cognosce upon such differences, and to appoint Visitors as they shall think fit, that being the Towns particular priviledge both by their Charters and by their Sett, it being expressly provided by the Sett, that neither Merchants nor Crafts and their Deacons nor Visitors, shall have or make any general or particular meeting, but by the advice of the Magistrats and Town Council, *Tertio*, It is a strange piece of confidence that the Apothecaries should desire, that the Magistrats and Town Council should be ordained to appoint a Visitor for convening their Fraternity, and to grant such priviledges as they shall desire, which is down right contrair to the priviledges of the Town and the Sett, and to crave that that should be done under a certification, and that without so much as calling the Magistrats, then which there can be nothing more ridiculous and absurd, and therefore seeing the *Chirurgeons* and *Chirurgeon Apothecaries* are not obliged Summarily to answer a Bill, and that this Proces is already depending before the Town Council, to whom it properly belongs to cognosce upon such differences, and that the Magistrats whose priviledges are principally concerned are not called, the desire of the Bill as most groundless and absurd ought to be refused, and when the *Apothecaries* shall raise any action of Declarator, they shall have an answer: Whilk Supplication and desires



thereof, and answers above written made thereto, being at length read, heard, seen, and considered by the saids Lords, and they being therewith well and ripely advised, the Lords of Council and Session upon the eighteen of *March* instant, ordained the Magistrates and Town Council of *Edinburgh* to nominate and appoint a Visitor for convening the said Fraternity, thereafter the said *Apothecaries* of *Edinburgh* gave in an other Supplication to the saids Lords, shewing that where the Petitioners having applyed to the Lords, representing that albeit they had several times petitioned the Magistrates and Town Council of *Edinburgh* to nominate and appoint a Visitor, to the effect the *Apothecaries* might meet and convene for tryal and Examination of intrants and doing their other affairs, yet notwithstanding such was the power and influence of the *Chirurgeons*, that they could not obtain so just a desire, and which was done of purpose that the Petitioners might be deprived of the benefite of your Lordships Decreet of Declarator, separating of the two Callings of *Pharmacie* and *Chyrurgerie*. And therefore craving that the Lords would ordain the Magistrates and Council of *Edinburgh*, to nominate a Visitor which Petition and Answers thereto, being considered by the Lords, and they having found the same most just and reasonable, they did accordingly ordain the Magistrates of *Edinburgh*, to nominate a Visitor betwixt and the twenty one with Certification, that the saids Lords by their own Authority, would nominate and appoint a Visitor, and which deliverance being intimat to the Magistrates of *Edinburgh*, they in place of giving of obedience thereto, have nominate and appointed two Visitors, whereof *David Pringle* the present Deacon of the *Chyrurgeons* is one which is in plain terms, to continue the conjunction of the two Calling of *Chyrurgerie* and *Pharmacie*, and to render the Lords Decreet of Declarator, separating the same, Eiusory and of no effect. And in regard such Insolent proceedings, cannot be justified as being a contempt of the Lords Authority, to which the Magistrates and Council of *Edinburgh*, ought to submit and give all obedience. And therefore humbly craving that the Lords without further delay, would nominate and appoint a Visitor for convening the Fraternity of *Apothecaries* to meet on all occasions, and in Vindication of their own honour and Authority to inquire & censure such unwarrantable proceedings, whereby notwithstanding of the Lords Decreet of Declarator, separating the two Callings of *Pharmacie* and *Chyrurgerie*, the Magistrates and Council of *Edinburgh*, have presumed to nominate *David Pringle* present Deacon of the *Chyrurgeons* to be a Visitor for the *Apothecaries*, and to discharge the said *David Pringle* upon pretence of the said Nomination, to accept or to act in any such Capacity, he being by the foresaid Decreet of Declarator altogether incapable to sit and meet at the Table of the *Apothecaries*, but only at the Table of the *Chyrurgeons*, which Supplication and desire thereof, being considered by the saids Lords, they ordained the Procurators for the Magistrates and Town Council of *Edinburgh*, to see and answer the same, which being given up to their said Procurators to see, they returned the same with the Answers following, viz. That it is so great insolence in the said *Apothecaries* to offer to trouble the Lords with such a Bill against the Magistrates, who has been so kind to them, as to allow them to meet, whereas without their allowance, they could not meet nor have any Priviledge at all, and yet the Magistrates have been most ungratefully used by them, which was very unbecoming any Burghs within the Town, far less the *Apothecaries* to whom the Magistrates have done so many favours, but in answer to the Petition, It was humbly represented to the Lords. 1. That it is the undoubted Priviledge of the Burgh of *Edinburgh* granted to them, by the first Erection, that no person can convocat and convene within the Burgh, unless by the Authority and appointment of the Magistrates which was confirmed, to them by several Charters under the great Seal, granted to them by his Majesties Royal Predecessors. As also it is expressly provided by the Seventeenth Act *Parliament* eighteenth, King *James* the Sixt, that no person nor persons, within the Burgh of whatever Rank or condition they be of, presume to take upon hand, under whatsoever Colour or Pretext, to Convocat or Assemble themselves together at any occasion, except they make due intimation of the lawful Cause of their Meetings to the Provost and Baillies within Burgh, and obtain their Licence thereto. 2. As this is clear from the Towns Charters by several Acts of *Parliament*, so it is likewise clear from the Stat, and Decreet Arbitral pronounced by *James* his Majesties Royal Grand-Father of ever blisfed Memorie, by which it is expressly provided, that neither Merchants amongst themselves neither the Crafts and their Deacons or Visitors, shal have or make any particular or general Conventions, as Deacon with Deacons, Deacons with their Craft or Crafts amongst themselves far less, to make private Laws or Statutes Poynd and Distringzie at their



their own hands, for transgressions without advice and consent of the Provost, Baillies and Council, which is confirmed by Act of *Parliament*, by which it is evident, that none of the Crafts can meet among themselves, nor Deacon with Deacons, can warrantably meet without warrand from the Magistrats, far less can any other Persons that are none of the Crafts meet amongst themselves without warrand from the Magistrats, who may appoint one to Conveen and proceed among them, and dissolve them at their pleasure, and appoint a Visitor, to any that they shall allow to be in a Fraternity as they shall think fit. 3. The Apothecaries not being any of the Fourteen Trades, which are only allowed by the Set, nor any part of the saids Crafts, they upon Application made to the Chyrurgeons in the year, 1657. desiring to come under their Protection, and that they would interpose for them to the Magistrats, to allow them to convene with the Chyrurgeons, and that there may be Visitors appointed, and to try Intrants, and accordingly the Magistrats by an Act of Council, did appoint two Visitors, an Chyrurgeon and Apothecarie, who with one or two of the Baillies and Dean of Gild, might visit the sufficiency of all Drugs within the Burgh and Liberties thereof, which Act of the Town Council, was thereafter ratified by express Act of *Parliament*, in the year 1670. And be that Act of *Parliament*, it is provided that if any person shall find themselves prejudged and wronged by the determination of either of the saids Incorporations and Brotherhood respective, contrair to the Laws, Rights, Liberties and Priviledges, and power granted to them or either of them, that then, and in that case they shall have recourse to the Magistrats and Council of *Edinburgh*, who may determine in these cases for both Parties, so that both be the said Act of Council, and Act of *Parliament* Ratifying the same; It is evident, that the Apothecaries can have no Visitor, but such as the Town shall appoint, that there has allways been a Chyrurgeon one of the Visitors, and the Apothecaries having given in a Petition to the Magistrats, Craving that they may have the Sole benefite, and Priviledge of the Act of Council in the year *One Thousand Six Hundred Fiftie Seven*, and the Chirurgeons have given in a counter Petition, that now seeing the Apothecaries do separat themselves from them, and that the Apothecaries were none of the Fourteen Crafts, they ought not to have any Priviledge at all by the said Act of Council in the year *One thousand six hundred fiftie seven*, and the Magistrats that they might do that which was just and equal to them both, they did appoint an Apothecarie, and the Deacon of the Chirurgeons to be Visitors, together with a Baillie and the *Dean of Gild*, with Power to the saids Visitors to do every thing as they were formerlie Impowered to do by the fore-said Act of Council in the year *One thousand six hundred fiftie seven*, which is Ratified by Act of *Parliament*; So that it is strange with what confidence these Apothecaries can contravert this new Act of Council made by the Magistrats, being conform to the former Act of Council, and Act of *Parliament*: And whereas it is pretended that the two Callings being now separat by Decreet of the Lords, a Chirurgeon ought not to be one of the Visitors to the Apothecaries. It is Answered, that it being the Priviledge of the Magistrats, that no Person can meet under the notion of fraternities within the Burgh, unless by the Magistrats Warrand, they upon that Ground have undoubted Right to appoint one to proceed among them, and to be Visitors; and the Magistrats are not concerned in the Separation of the Tables, for that cannot derogat from their Priviledge, and they may appoint any Person to proceed amongst them, albeit he were neither Apothecary nor Chirurgeon, but any of the Magistrats may be appointed to Visit and proceed; but it is likewise most necessary that an Chirurgeon be appointed with an Apothecary to be Visitors; seeing that it is as necessary to consider the sufficiency of Drugs as well inward as outward applications; and the Deacon of the Chirurgeons appointed, being an Chirurgeon Apothecarie, he has as good Skill of Drugs as any of the Apothecaries, and the Magistrats may appoint any Person to visit that has Skill of Drugs; as also, there is an express provision in the Patent granted to the Physicians that all Drugs shall be visite by one of the Magistrats of the Town with an Apothecary and Chirurgeon Apothecary, and therefore this being the undoubted priviledge of the Magistrats to name Visitors, and to appoint any person they shall think fit to convene and proceed amongst such Persons as they shall allow to be in a fraternity, and having accordingly named Visitors, the Deacon of the Chirurgeons ought not to be Excluded, but the Desire of such an intolent and groundles Bill given in against the Magistrats by the Apothecaries who owe any Liberty they have to the Town, ought to be refused, and they ought to rest satisfied by the Nomination made by the Magistrats; And if it were otherways, then any Number of Persons that pretended to be a Calling, albeit none of them, any part of the Fourteen Trades might



upon a Petition to the Lords crave a Visitor, and one to convene and proceed amongst them, and so in place of Fourteen Crafts might have erect a hundred without content of the Magistrates, which is down-right contrair to the Burghs Priviledges and the Set of the Burgh, which is confirmed by Act of Parliament; And it was never yet practised that any Visitor, or any Person that was appointed to proceed in a Fraternity was allowed, but such as were appointed by the Magistrates; and this being the great Priviledge of the Burgh, which they have by the Set and Golden Charter; It is hoped the Lords will be very tender of the good Towns Priviledge, and not put them in the Ballance with the said few Apothecaries, in a matter that so much concerns the Towns Priviledges; and therefore if the least difficultie remained with the Lords, humbly craved an hearing in their own presence; Whilk Supplication, desire thereof, and Answers above-written made thereto being at length read, heard, seen and considered by the saids Lords; And they being therewith well and ripely Advised, the Lords of Council and Session do *pro hac vice*, Nominat and appoint, and hereby Nominats and appoints *John Joisse* Apothecary Burgess of *Edinburgh* to be Visitor for convening the Fraternity of Apothecaries on all occasions, and have found, and hereby finds that in time coming the Magistrates of *Edinburgh* ought to nominat one of these Persons, who sit and meet at the Table of Apothecaries, to be Visitor of the said Fraternity of Apothecaries, *Extractum de Libris actuum per me*, Sic Subscribitur *George Mackenzie, Clericus Registri*.

*Follows another Act in Favours of the Apothecaries of Edinburgh.*

**A**T *Edinburgh*, the Twenty fifth day of March, One thousand six hundred eighty five years, anent the Supplication given in, and presented before the Lords of Council and Session, by the Apothecaries within the Burgh of *Edinburgh*, Shewing that whereas the Lords having by the Decreet of declarator in the Petitioners Favours upon very Rational and important Considerations Separat the two Callings of Chirurgery and Pharmacy, and Ordained in time coming, the several Trades to sit at different Tables, for making of which Decreet effectual; The Petitioners having thereafter applyed to the Magistrate and Town Council of *Edinburgh* for the time, that they might appoint a Visitor for convening the Petitioners Fraternity, which they having refused, by the influence and importunity of the Deacons. The Lords did interpose their Authority by Ordaining them to do the samen; and thereafter they having in an insolent manner given in a sort of a mock Obedience to the Lords Sentence by nominating a Chirurgeon and an Apothecary to be joynt Visitors of the Petitioners Fraternity, which was in effect a new Conjunction by their own Authority of the two Trades, which the Lords by so solemn a Decreet has Separat, upon which high and insolent contempt of the Lords Sentences; the Petitioners having thereafter presented a new Petition, Complaining of their said deportment, the Lords were pleased, after both the Chyrurgeon-Apothecaries, and the Town of *Edinburgh* their Procurators had given in Answers to the several Petitions, containing a full representation of all their Grounds, and finding that the Town of *Edinburgh* refused to give any obedience to supply the samen, by interposing the Lords Authority in vindication of their reiterated Acts and Sentences, and did appoint *John Joisse* to be sole Visitor, for convening the Fraternity of Apothecaries on all occasions for that year; and did find, that in time-coming the Magistrates of *Edinburgh* ought to nominate one of these persons who sits at the Table of Apothecaries Visitor of the Fraternity, And now the Petitioners having applyed to the present Magistrates for nominating a Visitor for this ensuing year, conform to the Lords former Ordinance, being one of these that sits at the Petitioners own Table, and to that effect, having given in a List of such persons, to the effect they might make a choice, they were so far from having any regard to the saids Lords Sentences and Acts above-mentioned, whereby the Trades were separate, and they appointed to nominat a Visitor of the Petitioners own Fraternity, which were all given in to the Clerk, and produced before them in Council, that in manifest contempt thereof, by a previous Combination of the Deacons and Tradesmen, who influences the rest of the Council, they have again proceeded for this ensuing year, to nominat a Chyrurgeon and an Apothecary, to be joint Visitors of the Petitioners Fraternity, and an intransigent Apothecary having applyed for a Tryal, they have recommended him to the saids Visitors, which they always formerly refused; and likewise they refuse to give the Petitioners out an extract of their said Nomination, of purpose to protract this Session, that the Petitioners may not have occasion



cation to seek redress from the Lords : And seeing they have no other remeid, but now to apply to the Lords, for vindication of their saids Priviledges, and likewise of the Lords own Authority, against so frequent and reiterated acts of Contempt and Disobedience; and therefore humbly craving, that the Lords would be pleased as formerly, to far this ensuing year, to nominat one of these who sit at the Petitioners own Table, to be their Visitor, out of a List herewith given in or else to prevent the Lords trouble in all time-coming, to allow the Petitioners themselves to meet and choise yearly their own Visitor, and to admit of Intrants by the Petitioners own Authority, seeing the Town of *Edinburgh* have so frequently refused the same, as the said Supplication bears ; which being Considered by the saids Lords, they Ordained the Procurators for the Magistrats and Town-Council of the said Burgh, to see the said Supplication, and to answer the same upon Tuesday next thereafter ; which being accordingly given up to the saids Prucurators to see, they returned the samen with the Answers following, *viz.* That it is strange with what confidence the Apothecaries can give the Lords the trouble by such an groundless and insolent Bill, which doth so highly reflect upon the Magistrats, and it does evidently appear, that it seems they would state themselves in an Incorporation, without owning their priviledge or dependance from the Magistrats, which is a down right Incroachment upon the Priviledges of the City, that any that enjoys their Trade and Calling within the Good-Town, and are Burgessees, should treat the Magistrats at that rate that these Apothecaries does, whereas they had never so much as an allowance, nor could not meet on their pretended Fraternity, unless it had been by the Magistrats tollerance ; so that it is most improper for them to call the Towns Priviledges in question. Therefore it is Answered to the Petition, 1. That whatever Acts or Decrees they may pretend to have in their favours, separating the two Callings of Chyrurgery and Pharmacy, and appointing distinct Tables, the Magistrats were not concerned in these Decrees, they not being called thereto, and so was *res inter alios acta* as to them ; and whatever these Acts or Decrees may take amogst themselves, yet that can never prejudice the Priviledges of the Good-Town. 2. By the *Sett*, which is the fundamental Constitution of the Burgh, and by many Laws and Acts of Parliament, it is expressly provided, *That there shall be made no Meetings within Burgh, of any Society or Fraternity, but by the Warrant and Authority of the Magistrats* : And if these Apothecaries, who pretend to a Fraternity, cannot so much as meet and convene without License from the Magistrats, far more has the Magistrats Power to name who shal proceed amongst them, or Visitors who shal visit the Drugs in the Apothecaries Stoops, and appoint the method and way and manner thereof within the said Burgh. 3. It is clear by the Patent granted to the Physicians, that the Drugs are to be visited by an Chyrurgeon-Apothecary and an Apothecary, so that the Magistrats and Town-Council having named Visitors, conform to the Physicians Patent under the Great-Seal, the samen can never be questioned as being done contrary to the pretended Priviledges, but what the Good-Town is pleased to allow them. 4. It is clear by several Acts of his Majesties privy Council, one in *November* and another in *January* last, posterior to all these fore-said Acts and Decrees which the Apothecaries founded upon, whereby it is expressly ordained, that the Drugs should be visited conform to the Physicians Patent, and consequently it ought to be done by an Chyrurgeon-Apothecary and an Apothecary, as is provided by the said Patent : And albeit the last Act of Council mentions two Apothecaries to be present, yet that can only be understood in the terms of the Patent, seeing that Act ordains expressly that the Visitation shal be made conform to the Patent. And seeing that by the Decreet separating the two Callings, it is expressly provided that the Chyrurgeon-Apothecaries that was then in exercise of both Callings, should continue in exercise of the samen during their lifetimes, & that the Magistrats & Town-Council has appointed an Chyrurgeon-Apothecary, who by the said Decreet has the liberty and freedom of exercising both Callings to be joined with an Apothecary for visiting the Drugs, the said Nomination so deliberately done by the Town-Council ought to be sustained ; and it is humbly expected of the Lords Justice, that they would be tender of the Priviledges of the Good-Town, and not to take from them that which is their greatest Priviledge, which they enjoy by the *Sett*, and their ancient Rights, and Golden-Charter, granted to them by the Kings Majesties Royal Predecessors, *That no Society or Fraternity shall be allowed to meet within Burgh, but whom the Magistrats and Town-Council should allow ; and that none shall proceed or convene the said Fraternity, nor be appointed Visitors, but whom the Magistrats and Town-Council shall think fit* : For if it should be otherways sustained, it would tend directly to overturn the fundamental and ancient Priviledges of the Burgh, and therefore the desire of the Bill, as being most groundless and insolent and impertinent ought to be refused. Which Supplication, and desire thereof,



thereof, and Answers above-written made thereto, being all at length read, heard, seen and considered by the saids Lords. *The Lords of Council and Session, in regard of the saids Magistrats and Town-Council their irregular Nomination of Visitors, contrair to the saids Lords their former Act, Do as of before, pro hac vice, Nominat and Appoint, and hereby Nominats and Appoints John Fowles Apothecary to be Visitor for Conveening the Fraternity of Apothecaries upon all occasions: And have found, and hereby finds, that the Magistrats in time-coming ought to nominat one of these persons who sit and meet at the Table of Apothecaries, so be Visitor of the said Fraternity.* Extractum de libris Actorum, per me, Sic subscribitur, Geo: Mackenzie, Cler. Registr.

*Follows the Ratification in favours of the Apothecaries of Edinburgh.*

*At Edinburgh, the sixteenth day of June, one thousand six hundred eighty and five years.*

**O**UR SOVERAIGN LORD, with Advice and Consent of the Estates of Parliament: Ratifies, Approves, and perpetually Confirms to and in favours of the Fraternity of Apothecaries within the Burgh of *Edinburgh*, all Liberties, Priviledges, Immunities, Seals of Cause, or others whatsoever conceived in their favours, or granted to them at any time whatsoever, either by his Majesty, or the Good-Town of *Edinburgh*: And likewise, all Decrees, Acts, Sentences in their favours, either of his Majesties privy Council, Lords of the Session, or any other Judicatory within this Kingdom, which are relative to their saids Priviledges, and specially but prejudice of the generality of an Decree of Declarator before the Lords, dated the twenty fourth day of *March* one thousand six hundred and eighty two years: *Declaring*, That the Employments of *Chyrurgery* and *Pharmacy* are distinct, and that the samen should not be exercised by one person within the City of *Edinburgh* and Liberties thereof, and all other Heads, Articles and Interlocutors conceived in their favours contained in the said Decree; And likewise, two several Acts of the Lords of Session, one dated the twenty sixth day of *March* one thousand six hundred and eighty four years, and the other the twenty fifth day of *March* one thousand six hundred and eighty five years, whereby the saids Lords, upon the Town of *Edinburghs* refusal, did themselves nominat one who sits at the Table of the Apothecaries to be Visitor to their Fraternity, and likewise found, that the Magistrats of *Edinburgh* ought in all time-coming to nominat such a person to be their Visitor. Extracted furth of the Records of Parliament, by *George Viscount of Tarbat*, Lord *Mackleod* and *Castlehaven*, Clerk to his Majesties Parliament, Council, Registers and Rolls, &c. Sic subscribitur, *TARBAT*, Cler. Registr.

*ACT in Favours of the Fraternity of the Apothecaries of Edinburgh.*

**A**T *Edinburgh* the ninth Day of *March*, one thousand six hundred and eighty six years, anent the Supplication given in and presented to the Lords of Council and Session by the Fraternity of Apothecaries within the Burgh of *Edinburgh*, shewing, that where the saids Lords by the Decree of Declarator in the Petitioners favours upon very Rational and Important Considerations, separate the two Callings of Chyrurgery and Pharmacy, and ordained in time coming the saids two Trades to sit at different Tables, for making which Decree effectual, the Petitioners having thereafter applyed to the Magistrats and Town-Council of *Edinburgh*, for the time that they might appoint a Visitor for conveening the Petitioners Fraternity, which they having then refused, the saids Lords did interpone their Authority by ordaining them to do the same, and thereafter they having in an insolent manner, to elude the saids Lords Sentence, nominate an Chyrurgeon and an Apothecary to be joynt Visitors of the saids Petitioners Fraternity, upon which the Petitioners did present a new Petition complaining of the said Deportment, the said Lords were pleased upon Consideration of the Bill and Answers, whereby it appeared that the Town of *Edinburgh* did refuse to give any Obedience to interpose their own Authority by appointing *John Joisse* to be sole Visitor for conveening the Fraternity of the Apothecaries for that year on all Occasions, and did find by their Interlocutor that in time coming, the Magistrats of *Edinburgh* ought to nominate one of these Persons who sit at the Table of Apothecaries Visitor of the Fraternity, and notwithstanding of which Nomination, and Deliverance in the Petitioners Favours, they having for the next ensuing year again applyed to the Magistrats and Town-Council that they would nominat a Visitor of their own Fraternity



nity, and having for that effect given in a List of several Persons of their own number that they might choose, they had so little regard to the saids Lords their former Ordination, that for that year they did again proceed in manifest contempt and Derision of the saids Lords Authority to nominate an Chirurgion and an Apothecary to be joynt Visitors of the Petitioners Fraternity which the saids Lords at the end of the last Session did so far resent, that upon a new Petition given in by the Petitioners, representing, that the saids procedure did Nominate and appoint *John Fowles* Apothecary to be Visitor for that year, and found by their Interloquitor, that in all time coming, the Magistrats ought to nominate one who sits at the Apothecaries Table to be Visitor of the Fraternity, and that the Nominations made by the Magistrats at that time were irregular, as the several Acts therewith produced will testify; and likewise in farther Testimony of the saids Lords Displeasure, they did call in the Town Assesors for the time, and did publickly censure them for giving such unreasonable Advice in Contempt of the saids Lords Sentences, and although the Petitioners might now have expected that the Lords so frequent reiterated Ordinances would have met with very punctual Obedience, yet now the third time they have proceeded to that pitch of Contempt and Disobedience to the saids Lords their Authority, that the Petitioners having applyed for a Visitor for this ensuing year, and conform to the saids Lords their Decreet and Ordinances, and having given in a list for that effect, they have conform to their former Custom again proceeded to Nominate an Apothecary and Chirurgion to be Visitors of the Petitioners Fraternity, which to the high and manifest contempt of the saids Lords Authority, that tho' the Petitioners should be silent the saids Lords are concerned to vindicate the same, and to fall upon some expedient for the Future for making the saids Lords Decreets in the Petitioners Favours effectual, and preventing such Incroachments upon the Petitioners priviledges, that it may not be in the power of the Town of *Edinburgh* to reunite these two Trades which the saids Lords has separat by so solemn a Decreet which is all upon the matter as to assume to themselves the power of reducing the saids Lords Sentences; and therefore humbly craving that the saids Lords would be pleased as they did for these two years preceeding to nominate *pro hac vice* one of the Petitioners own Fraternity conform to a Bill given in; And likewise seeing that every year the saids Lords met with this trouble, and the Magistrats seem to be obstinate in their Disobedience to the saids Lords Decreet, that therefore the saids Lords in time coming for preventing such trouble, would allow the Petitioners to choose their own Visitor in all time coming, as in the said Supplication is at more length contained, whilk Supplication and desire thereof being considered by the saids Lords, they ordained the Magistrats of *Edinburgh* their Procurators to see the Petition and to answer there to against the next day thereafter *peremptorie*; And the saids Magistrats of *Edinburgh* their Procurators having failzied to give in Answers to the said Petition, the saids Lords in respect thereof granted warrant to Macers to cite the Magistrats of *Edinburgh* to compear and answer to the Petition above-written, upon *Tuesday* next being the day and date of their presents, and appointed them this day to produce the Act mentioned in the foresaid Petition, whereby they did Nominate an Apothecary and a Chyrurgeon Visitors of the Fraternity of Appothecaries for this year by virtue whereof, upon the eight day of *March* instant, *William Maxwell* one of the Macers before the Lords lawfully Cited the Provost, Baillies, Dean of Gild, and Thesaurer of the said Burgh of *Edinburgh*, present Magistrats thereof, to Compear before the saids Lords this day, bringing with them the foresaid Act, in obedience whereunto compeared the saids Magistrats of *Edinburgh*, in presence of the saids Lords by Sir *John Lauder* Advocat their Procurator, who for them produced two Acts of Council, the one whereof is dated the twenty sixth day of *February* last by past, whereby the saids Magistrats of *Edinburgh* Elected and choised *John Joisse* Apothecary to be Visitor for this ensuing year, for conveneing of the said Fraternity of Apothecaries upon all occasions, and the other of the saids Acts dated the third day of *March* instant, whereby the saids Magistrats upon a Petition given in by the Chirurgion Apothecaries of the said Burgh, appointed *David Pringle*, Chirurgion Apothecary to be Visitor for the Chirurgion Apothecaries for this ensuing year, providing it be agreeable to the Lords Decreet, and Acts made anent the Apothecaries and Chirurgion Apothecaries; and the Patent granted by his Majestie to the Colledge of Physicians and no otherways, as the saids two Acts bears, which Supplication and desire thereof, with the foresaid two Acts produced by the Magistrats of *Edinburgh*, in obedience to the saids Lords their Ordinance above-exprest, by the first of which they did nominate *John Joisse* Visitor, and by the last *David Pringle* Chirurgion Apothecarie, Visitors for the Chirurgion Apothecaries, being all at length heard, seen and con-



desired by the saids Lords, and they therewith being well and reaply advised; The saids Lords have found, and hereby finds the last Nomination of *David Pringle* to be void & null, and declares the same to bear no Faith in Judgement, nor out with the same in time coming, and have appointed, and hereby appoints *John Joisse* to be sole Visitor for convening the Fraternity of Apothecaries this year at all Occasions, and the saids Lords declare that if the Magistrats and Town Council of *Edinburgh*, shall at any time hereafter contraveen the former Act by naming a Chirurgeon Apothecary Visitor for the Fraternity of the saids Apothecaries yearly, they will allow the saids Apothecaries to name their own Visitor in all time coming. *Extractum ex Libro actuum per me, Sic Subscribitur. TARBAT. Clk.*

*One other Act in Favours of the Fraternity of the Apothecaries of Edinburgh.*

**A**T *Edinburgh*, the Thirty day of *June*, One thousand six hundred and eighty seven years, anent the Petition given in, and presented to the Lords of Council and Session by the Fraternity of Apothecaries within the Burgh of *Edinburgh*, shewing that whereas the Lords after the Decreet of Separation of the two Callings of Pharmacy and Chirurgery did appoint them to sit at different Tables, and likeways did appoint the Town of *Edinburgh*, by several Acts and Deliverances to nominat one of their Fraternity to be Visitor of the Calling, & the Town being so influenced by the Chirurgeon Apothecaries who are one of the Trades, as always to Nominat one of their own Number to be their Visitor in manifest contempt of the Lords frequent and reiterated Acts, which the Lords did find so unreasonable, and inconsistent with the ends of the Separation, that now for these five or six years last by past, when the Town did nominat an Chirurgeon Apothecarie to be Visitor, the Lords did most justly Rescind the said Nomination, and every year since the said Separation in respect of their contumacy and disobedience did nominat one of the Petitioners number to be Visitors, and by an Act in the Petitioners Favours, in *March*, One thousand six hundred and eighty six years, the Lords did not only Rescind the Nomination of *David Pringle*, and did nominat *John Joisse* in his place who is a simple Apothecarie to be Visitor of the Fraternity for the then ensuing year, but likeways declared that if the Magistrats and Town Council of *Edinburgh*, should at any time thereafter nominat an Chirurgeon Apothecary to be the Petitioners Visitor, that they would devolve upon the Petitioners themselves, the Nomination in all time coming of their own Visitor. And likeways the Petitioners having applyed to the Lords in *December* last, upon the Illegal Nomination of *John Baillie*, and *Mr. James Mackmath*, the Town of *Edinburgh*, and the Chirurgeon Apothecaries did give in an Answer founded upon an Patent from His Majestie in their Favours, taking off the said Decreet of Separation, and reuniting the Trades, and the Lords by their Deliverance after they were three or four times Ordained to produce the said Patent, did at length in respect of their refusal to produce the same Discharge the two Persons then Nominat to Officiat, and did appoint *John Joisse* to conven who was formerly Nominat by the Lords until the expiring of the year for which he was Nominat, and now the year being elapsed, and the Petitioners having again applyed to the Town Council, and gave in a List of these of the Petitioners Fraternity, the Magistrats by their Deliverance, have not only refused the Desire of the Petitioners, in respect of the Patent granted in Favours of the Chirurgeon Apothecaries, but have appointed the two persons whom the Lords formerly discharged to Officiat, to be again received, viz. *John Baillie*, and *Mr. James Mackmath*. And therefore humbly craving, that seeing the Lords by their Deliverance in *March* one thousand six hundred and eighty six years, declared, if the Town-Council would proceed to nominat an Chirurgeon-Apothecary to be the Petitioners Visitor in time-coming, the Lords would allow the Petitioners to nominat their own Visitor; and likewise they have refused to produce their Patent to the Lords in *December* last, though they founded their Answers thereupon to the Petitioners Petition, that therefore the Lords would be pleased upon the Considerations foresaid, in the first place to discharge *John Baillie*, & *Mr. James Mackmath* to Officiat in the said Office, as the saids Lords did formerly in *December* last, and to Nominat one of the Petitioners number, according to the List given in, or to free the Lords of this perpetual trouble, that the Lords would allow the Petitioners the Nomination of their own Visitor in all time-coming, as the saids Lords declared by their Deliverance in *March* one thousand six hundred and eighty six years. Whilk Petition and desire thereof, being



being read in Audience of the saids Lords, and they being therewith well and revised : The Lords of Council and Session, have discharged, and hereby discharges the saids Nominat Visitors by the Town-Council of *Edinburgh* to Officiat, and have Nominat and Appointed, and hereby Nominats and Appoints *Hugh Neilson* to be Visitor of the Fraternity of the Apothecaries for this year. *Extractum ex libro actuum, per me, sic subscriptur.* Al. Giblon.

*One other Act in Favours of the Fraternity of Apothecaries of Edinburgh.*

**A**T *Edinburgh*, the Nineteen day of *July*, 1688, years, Anent the Petition given in, and presented to the Lords of Council and Session, be the Fraternity of the Apothecaries within the Burgh of *Edinburgh*. Shewing that whereas the Lords having by their Decreet several years ago, upon very rational and Important Grounds, separat the two Callings of Pharmacy and Chyrurgerie, and for makeing the said Separation effectual, did appoint them to Sit at two different Tables, and the Lords having afterwards appointed the Town of *Edinburgh*, by several Acts and diliverances to nominat, one of their Fraternity to be Visitor of the Calling, and the Town having always complied with the Chyrurgeon-Apothecaries, who are one of their Trades, to nominat one of their Number to be Visitors to the Apothecaries, which the Lord did find so unreasonable, and Inconsistent with the ends of the separation, that now for these four years bypast, when they did nominat an Chyrurgeon-Apothecarie, the Lords did most justly rescind the said Nomination, and in respect of their Contumacie and disobedience, did themselves nominat, ane simple Apothecarie for these several years bypast, and did so far resent the disobedience that in *March*, 1685, years, *Sir Patrick Hume* the Towns Assessor, for the time was called in before the Lords, and publickly rebuked, for giving the Town so unreasonable an advice, and particularlie in *March*, 1686, years, the Lords by their Act in the Apothecaries favours, which is produced in Proces, fand that the Nomination of *David Pringle* a Chyrurgeon-Apothecarie, was void and null, and in his place appoint *John Joisse* a simple Apothecarie, to be sole Visitor for that year, and farther declared, that if the Magistrats and Town Council of *Edinburgh*, should at an time thereafter nominate ane Chyrurgeon-Apothecarie to be Visitor of the Apothecaries Fraternity, that the Lords would allow the Petitioners, to name their own Visitor in all time coming, likeas the Town Council of *Edinburgh*, having in *December*, 1686, years, upon pretence of a Patent lately obtained from his Majesty, in favours of the Chyrurgeon-Apothecaries, taken upon them to Nominat a Visitor to the Petitioners Fraternity, notwithstanding that *John Joisse*, was at the time Visitor be the Lords own appointment, and that this year was not expired, the Lords were pleased by their Interloquitor upon the eighteen of *December*, the said year to Discharge the Visitor, appointed be the Town Council, and to continue the said *John Joisse* Visitor of the Petitioners Fraternity, until the expiring of the year, for which he was nominat by the Lords. And farther in *June* 1687, the Petitioners did apply to the Town Council, to nominat a Visitor which they having delayed, the Petitioners were necessitat again to mean themselves to the Lords, and after hearing all the answers given in by the Town Council, the Lords did appoint *Hugh Nilson* to be Visitor for that year, as is evident by the Act produced in Proces, and now the Petitioners having again applyed to the Magistrats and Town Council, to appoint a Visitor to the Petitioners Fraternity for this year, they have after their usual manner delayed to give any answer, and since the Petitioners have no other ways of Redreis, against so frequent and reiterated Acts of contempt, and disobedience to the Lords Authority, and incroachments upon just Priviledges, but to make a new Complaint and Representation of the saids abuses, and therefore humbly Craving the Lords would consider the former Acts for these several years bypast, and particularly that in *March*, 1686, whereby the Lords nominate *John Joisse* for that year, and declaired that if the Town did nominat in any time thereafter a Chyrurgeon-Apothecarie, that the Lords would allow the Petitioners to choise and nominat their own Visitor, as the last Act in *June*, 1687, appointing *Hugh Neilson* to be Visitor for that year ensueing, and to save the Lords from all furdre trouble, to declair that in all time coming, that the Petitioners shall have liberty to Choise, and nominat their own Visitor, as in the said Petition at more length, is contained whilk Petition being Read in Audience of the saids Lords, they ordained the Procurators of the Town of *Edinburgh*, to see the said Petition, and answer the same the next day peremptorie, according whereinto the Procurators of the said Town of *Edinburgh*, having got up the Petition to see, they reproduced the samen, and gave in the answers thereto



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as follows, viz. It is answered that their being a Petition given in to the Town Council of *Edinburgh*, by the simple Apothecaries, the beginning of this Moneth of *July*, viz. that the Magistrats would nominat one of their Number, to be Visitor for this ensuing year, the Town Council of *Edinburgh*, did most warrantably and Moderatly carie therein, by ordaining the Chyrurgeon-Apothecaries, to see and answer the foresaid Petition, but before their answers could be given, or the Magistrats could medle with it, the Convention of Burrows, and the Lord Provost his going to Court so Intervened, that the Town Council could give no answer to the foresaid Petition, while that now after mature deliberation, and taking his Majesties Royal Gift, restoring the Chyrurgeon-Apothecaries to their former Priviledges, notwithstanding of ane previous Decreet of Separation, with a Letter from the Secretary of State, direct to the Lord High Chancellour, bearing his Majesties Inclinations, that his Lordship and the President of the Session, should consider both Patents, Decreets of Separation, and all other differences betwixt the Physitians, Chyrurgeons-Apothecaries, and simple Apothecaries, that the same Might be reported to his sacred Majestie, and the determination might be made by his Majestie, as might end these Debats betwixt them, and in the mean time Stopping all Proceſs relating thereunto, until his Majesties further pleasure should be known therein, they have upon such unquarrellable grounds, and his sacred Majesties Pleasure and Command so often repeated to them, declared that they can do no Deed prejudicial thereto, until the will of the said Letter be fulfilled, or the new Gift in favours of the Chyrurgeon Apothecaries be reduced, as the Double of the said Letter from the Secretary of State direct to the Lord High Chancellor, with the double of the simple Apothecaries Petition to the Town Council of *Edinburgh*, and their Deliverance on the back thereof produced testified; by all which it appears that the Magistrats of *Edinburgh* have not been *in mora*, as is falsely suggested, but they as all their Predecessors have still given ready Obedience to his Majesties Commands, and did not think it fit after so full and ample a Gift to such a distinct & clear Letter, to meddle with either Parties therein, but the Truth is, this Affair is managed by a Company of some head-strong People, who make it their Busiuels to creat Division, and make Parties in all the Societies and Incorporations of the Town, and who being sworn Burgesses thereto, for which calumnious Petitions as they have given in these several years bygone against the Magistrats of *Edinburgh* their Patrons, they ought not only to be severely punished therefore, but in all time coming be discharged to give in such Petitions, or at least while the Lords gave their final Sentence in the whole matter as his Majesty requires, otherways this may be an incouragement to the meanest Inhabitant of the Town to misrepresent the Magistrats, who are acting and doing nothing but by his Majesties Command, especially seeing the whole Affair is managed but by two or three discontented Apothecaries, the major part refusing to comply therein, as the said Answers bears, which Petition and Answers made thereto being all at length heard, read, seen and considered by the saids Lords, and the Copy of the Secretaries Letter given in their with, & they therewith being well & ripely advised. The Lords of Council and Session have Nominat and Appointed, and thereby nominats and appoints *John Joise* simple Apothecary, Visitor to the Fraternity of Apothecaries for that ensuing year. *Extractum de libro actorum per me, Sic subscribitur Al. Gibson.*



